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H.C.P.No.2213 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 18.12.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE S.S. SUNDAR**

**AND**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**H.C.P.No.2213 of 2023**

Pushpalatha

... Petitioner

Vs.

1.The State rep. by its,  
The Home, Prohibition and Excise Department,  
Secretariat, St. George Fort,  
Chennai – 600 009.

2.The District Magistrate & District Collector,  
Tiruvallur District,  
Tiruvallur.

3.The Superintendent of Police,  
Office of the Superintendent of Police,  
Tiruvallur.

4.The Superintendent of Prisons,  
Central Prison – II, Puzhal,  
Chennai – 600 066.

5.The Inspector of Police,  
R.K.Pet Circle (i/c),  
Tiruvallur.

... Respondents



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**Prayer** : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for the records leading to the detention of the petitioner's son namely Sathish, S/o.Sakthivel, aged about 22 years, detained under Act 14/82 vide detention order vide.B.C.D.F.G.I.S.S.S.V. No.10 of 2023, dated 15.05.2023, on the file of the 2<sup>nd</sup> respondent herein and quash the same and consequently direct the 2<sup>nd</sup> respondent herein to produce the body and person of the said detainee before this Court and thereafter set him at liberty from Central Prison-II, Puzhal, Chennai.

For Petitioner : Mr.D.Murugan

For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor  
assisted by  
Mr.C.Aravind

### **ORDER**

(Order of the Court was made by **S.S. SUNDAR, J.**)

The petitioner, mother of the detenu Sathish, S/o.Sakthivel, aged about 22 years, has come forward with this petition challenging the detention order passed by the 2<sup>nd</sup> respondent dated 15.05.2023 slapped on



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her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that the order of Detention passed by the Detaining Authority is vitiated for material irregularities, as the Remand Order dated 21.03.2023 has not been translated correctly to the vernacular language. It is stated that there is improper translation pertaining to the information to the detenu about his right to have free medical aid. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.



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4. On a perusal of the Booklet, in particular, Page No.62, it is seen that, in the Remand Order passed by the District Munsif-cum-Judicial Magistrate at Pallipattu, dated 21.03.2023, there is reference to the information to the detenu about his right to have free legal and medical aid. However, in the vernacular version available at Page No.64 of the Booklet, though there is reference to free legal aid, there is no reference to the information to the detenu about his right to have free medical aid. Hence, this Court finds that there is an improper translation of the Remand Order in the vernacular version.

5. It is in the said circumstances, this Court finds that serious prejudice is caused to the detenu on account of improper translation in making effective representation against the Detention Order and that the Detention Order passed by the Detaining Authority is vitiated.

6. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in *Powanammal Vs. State of Tamil Nadu* reported in



**(1999) 2 SCC 413.** The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:

*"9.However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu, should the document be in a different language.*



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*16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."*

7. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid reasons, this Court is of the view that the detention order is liable to be quashed.

8. Accordingly, the detention order passed by the 2<sup>nd</sup> respondent in B.C.D.F.G.I.S.S.S.V. No.10 of 2023, dated 15.05.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu Sathish, S/o.Sakthivel, aged about 22 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

(S.S.S.R., J.) (S.M., J.)  
18.12.2023

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Internet : Yes

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Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Home, Prohibition and Excise Department,  
Secretariat, St. George Fort, Chennai – 600 009.
- 2.The District Magistrate & District Collector,  
Tiruvallur District,  
Tiruvallur.
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- 6.The Public Prosecutor,  
High Court, Madras.



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**and**  
**SUNDER MOHAN, J.**

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