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H.C.P.No.2317 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.2317 of 2023

Shankar
S/o Vijayakumar .. Petitioner

v.

1. The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009
2. Commissioner of Police / Detaining Authority
Coimbatore City
Coimbatore District
3. The Superintendent
Central Prison
Coimbatore
4. State rep by: The Inspector of Police
B-1, Bazaar Police Station
Coimbatore District .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the 2nd respondent dated 24.04.2023 in C.No.43/G/IS/2023 against the petitioner's son S.Vaitheeswaran, M/23 years, Son of Shankar, who is confined at Central Prison, Coimbatore and set aside the same and consequently direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner :: Mr.A.Saranraj

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

ORDER

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

The petitioner, who is the father of the detenu, namely, S.Vaitheeswaran, aged 23 years, S/o Shankar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 24.04.2023 slapped on his son, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video



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Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard the learned counsel appearing 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 appearing for the petitioner confined his argument to the point that the contents of the history sheet relied upon by the detaining authority, have not been translated and that the translated version is not available in the booklet furnished to the detenu. Therefore, the learned counsel submitted that the non-supply of the said translated version vitiates the detention order.

4. On perusal of page 200 of the booklet, this Court confirms the statement of the learned counsel for petitioner. In the absence of copy of the translated version of the contents of the history sheet, the detenu is deprived of his valuable right to make an effective representation, as enunciated by the Hon'ble Supreme Court in the case of *Powanammal Vs. State of Tamil*



Nadu reported in **(1999) 2 SCC 413** holding that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu. In the said judgment, the Hon'ble Supreme Court has further held as follows:-

"6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

.....

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."

In tune with the judgment of the Hon'ble Supreme Court, this Court finds that the impugned order of detention is vitiated.

5. Accordingly, the detention order passed by the 2nd respondent dated



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24.04.2023 in C.No.43/G/IS/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., S.Vaitheeswaran, S/o Shankar, aged 23 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

20.12.2023

SS

To

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Home, Prohibition & Excise Department
Secretariat, Chennai 600 009
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5. The Public Prosecutor
High Court, Madras



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