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H.C.P.No.38 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.38 of 2024

Fathima

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
2. The District Magistrate and District Collector
Detaining Authority,
Tiruppur District, Tiruppur.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The Superintendent of Police,
Tiruppur District, Tiruppur.
5. The Inspector of Police,
Dharapuram Police Station,
Tiruppur District.

...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, directing to produce the body of petitioner's son named Rahuman alias Abdulrahuman, aged about 34 years, son of Mohammed Ali presently confined at Central Prison, Coimbatore before this Hon'ble Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 14.11.2023 made in Cr.M.P.No.52/GOONDA/2023 passed by the second respondent and quash the same.

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

ORDER

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

The petitioner, mother of the detenu Rahuman alias Abdulrahuman, aged about 34 years, S/o.Mohammed Ali, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 14.11.2023 slapped on her son, branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.



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2. Heard the learned counsel for the petitioner and the learned

Additional Public Prosecutor appearing for the respondents.

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the sole ground that the detenu was not furnished with the Remand order and Remand Extension order. It is therefore submitted by the petitioner's counsel that the detenu had been deprived of his valuable right of making an effective representation as against the impugned order of detention.

4. It is seen from the Booklet furnished to the detenu that he has not been furnished with the Remand order and Remand extension order. This non furnishing of the vital documents would deprive the detenu of making effective representation to the authorities against the order of detention.

5. 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 had occasion to deal with



similar situation where in the Grounds of Detention referred to an order remanding the detenu therein to judicial custody was in English language.

Since the tamil version of the document was not supplied to the detenue therein, a specific issue was raised by the Hon'ble Supreme Court whether failure to supply tamil version of the remand order passed in English, a language not known to the detenu therein, would vitiate the detenu's further detention. 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 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



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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.

.....

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.”

6. Thus, the detention order is vitiated on the ground of non-furnishing of the vital document in the vernacular language and hence, the same is



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liable to be quashed.

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7. Accordingly, the detention order passed by the 2nd respondent in Cr.M.P. No.52/Goonda/2023 dated 14.11.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Rahuman @ Abdulrahuman, S/o.Mohammed Ali, aged about 34 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
21.03.2024

bga

Index : Yes / No

Neutral Citation : Yes / No



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6. The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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