



HCP.No.65 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.65 of 2024

Karunanidhi

... Petitioner

Vs.

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009

2.The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai 600 007

3.The Superintendent of Prison
Central Prison - II, Puzhal
Chennai 600 066.

4.The Inspector of Police
K-8, Arumbakkam Police Station
Chennai 600 106

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the 2nd respondent in No.680/BCDFGISSSV/2023



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dated 20.12.2023 and quash the same and direct the respondents to produce the body and person of detenu namely Saravanan @ Thakkali Saravanan S/o.Karunanidhi, aged 35 years detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.M.Santharam

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 herein, who is the father of the detenu namely Saravanan @ Thakkali Saravanan, aged about 35 years, S/o. Karunanidhi, has come forward with this petition challenging the detention order passed by the second respondent dated 20.12.2023 slapped on her 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 Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the remand order given to the detenu has not been properly translated. In this circumstances, the learned counsel for the petitioner stated that serious prejudice has been caused to the petitioner for making effective representation.

4. On perusal of the booklet furnished to the detenu, it is seen that pages 8 and 9 contain the secret information received by the Investigating Officer, the subsequent registration of the FIR based on the said secret information, and the permission obtained by the Sub-Inspector of Police to proceed to the spot for taking the necessary action. In those two pages, except for the information in Tamil, the other portions mentioned above are in English. The translated version of those portions contained in Pages 8 and 9 has not been furnished to the detenu. The detenu is a school dropout who studied only up to the third standard, and he is not conversant



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in English. The non-supply of this document in the language known to the detenu would deprive him of the right to make an effective representation.

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, 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



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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.”*



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

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 20.12.2023 in No.680/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Saravanan @ Thakkali Saravanan, aged about 35 years, S/o. Karunanidhi, 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]

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Index: Yes/No

Neutral Citation: Yes/No

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5.The Public Prosecutor
High Court, Madras



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