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HCP.No.814 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

H.C.P.No.814 of 2024

Kokila

... Petitioner/Wife of
the detenuue

Vs.

1. State Rep.by
The Secretary to Government,
Co-Operation, Food and Consumer Protection Department,
Namakkal Kavignar Maaligai,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Additional Secretary to Government of India,
Ministry of Consumer Affairs, Food and Public Distribution,
(Department of Consumer Affairs),
Room No. 270, Krishi Bhavan,
New Delhi – 110 001.
3. The Commissioner of Police,
Salem City.
4. The Superintendent of Prison,
Central Prison, Salem.



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5. The Inspector of Police,
Civil Supplies Criminal Investigation Department,
Salem CS CID,
Salem City.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in C.M.P.No. 01/Black Marketer/Salem City/2024 dated 01.04.2024 on the file of the Commissioner of Police, Salem City, the second respondent herein and quash the same as illegal and direct the respondent to produce the detainee, Thiru.Senthilkumar @ Ganja Senthilkumar, S/o. Chinnathambi, aged about 46 years, now confined at Central Prison Salem, before this Court and set at liberty.

For Petitioner	: Ms.S.Sengodi
For Respondents	: Mr.E.Raj Thilak, Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 01.04.2024 is under challenge in the present Habeas Corpus Petition.



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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. Page No.70 of the booklet served on the detainee is illegible.

Thus, the detainee has been deprived of submitting representation in an effective manner.

4. 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 detainee 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 detainee, 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



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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.

..... **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*



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is required to be detained in any other case. The appeal is accordingly allowed.”

5. 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.

6. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings C.M.P.No. 01/Black Marketer/Salem City/2024 dated 01.04.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Senthilkumar @ Ganja Senthilkumar, S/o. Chinnathambi, aged about 46 years is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [R.S.V., J.]
23.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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AND
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