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HCP.No.913 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM :

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

H.C.P.No.913 of 2024

Poongothai

... Petitioner/Mother of the Detenu

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 9.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal.

4.The Inspector of Police,
V-5 Thirumangalam Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records leading to the detention of the petitioner's son namely Raj @ Mandai Raj Male, aged about



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25 years is presently lodged in Central Prison at Puzhal and has been detained under Act 14/82 as a “GOONDA” vide detention order dated 12.03.2024 on the file of the 2nd respondent herein, made in No.183/BCDFGISSSV/2024 quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Puzhal.

For Petitioner : Mr.B.Ramesh Babu

For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner, mother of the detenu Raj @ Mandai Raj, aged about 25 years, S/o.Elangovan, detained at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 12.03.2024 slapped on 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].



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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 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 English version of the Accident Register dated 12.11.2023, has not been translated correctly to the vernacular language. It is stated that there is improper translation pertaining to the number of persons who had assaulted the victim. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.

4. On a perusal of the Booklet, in particular, Page Nos.57, it is seen that, in the English version of the Accident Register copy, dated 12.11.2023, it is stated that ten known males had assaulted the victim. However, in the vernacular version available at Page No.58 of the Booklet, it is stated that the victim was assaulted by two unknown persons. Hence, this Court finds



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that there is an improper translation of the Accident Register in the vernacular version. 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.

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



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

6. 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.



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7. Accordingly, the detention order passed by the 2nd respondent in No.183/BCDFGISSSV/2024, dated 12.03.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu Raj @ Mandai Raj, aged about 25 years, S/o.Elangovan, detained at Central Prison, Puzhal, Chennai, 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]
15.07.2024

Index: Yes/No
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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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To

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