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H.C.P.No.927 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM :

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

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D.Thenmozhi

.. Petitioner/
Mother of the detenue
Versus

1. State of Tamil Nadu
Rep. by the Secretary to Government,
Home, Prohibition, Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Superintendent,
Central Prison, Puzhal,
Chennai - 600 066.
4. The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai - 600 081.

.. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed in No.275/BCDFGISSSV/2024 dated 30.03.2024 passed by the 2nd



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respondent and set aside the same and directing the respondents to produce the petitioner's son by name Thiru.Mahendran, son of M.Durairaj, aged about 29 years, before this Court now confined in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.S.Dharmesh

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

ORDER

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

The petitioner herein is the mother of the detainee viz., Mahendran, S/o.Durairaj, aged about 29 years, confined at Central prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 30.03.2024 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 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 ground that the detenue was furnished with illegible copies of observation mahazar and list of property sent to Magistrate in volume-II of the booklet. Hence, it is submitted that the detenue was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that Page Nos.17 and 19 in Volume-II of the booklet furnished to the detenue, are illegible. This furnishing of illegible copies of the vital document would deprive the detenue 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, after discussing the



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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 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



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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 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 30.03.2024 in No.275/BCDFGISSSV/2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz., Mahendran, S/o.Durairaj, aged about 29 years, confined at Central prison,



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Puzhal Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J]
22.07.2024

[S.M., J]

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Secretary to Government,
Home, Prohibition, Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Superintendent,
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5. The Public Prosecutor,
High Court of Madras.



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AND
SUNDER MOHAN, J.**

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