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HCP.No.902 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.902 of 2024

Bharatkumar

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 09.
2. District Collector and
District Magistrate,
Ranipet District, Ranipet.
3. The Superintendent of Police,
Ranipet District, Ranipet.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police,
Walajapet Police Station,
Walajapet.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 27.03.2024 in B3/D.O.No.27/2024 against the detainee Bharatkumar, Male aged 25 years, S/o.Dargaram, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detainee before this Court and set him at liberty.

For Petitioner : Mrs.S.Senthilvel
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 is under challenge in the present Habeas Corpus Petition.

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



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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 as there is a variation in the English Version and Tamil Version of the ground of detention. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.

4. Therefore, this Court is of the view that the improper translation of the copy of the vital document relied upon by the Detaining Authority to arrive at a subjective satisfaction, would deprive the detenu of his valuable right to make effective representation. It is in the said circumstances, this Court finds 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 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.



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..... **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 27.03.2024 in proceedings No. B3/D.O.No.27/2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Bharatkumar, S/o.Dargaram , aged about 25 years, confined at Central Prison, Vellore is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

09.08.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



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To

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5. The Inspector of Police,
Walajapet Police Station,
Walajapet.
6. The Additional Public Prosecutor,
Madras High Court.