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H.C.P.No.992 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

and

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.992 of 2024

Sandhya @ Chandra

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. By its Secretary
Home, Prohibition & Excise Department
Fort St. George
Chennai 600 009

2.The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police
Chennai 600 007

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

4.The Inspector of Police,
M-3, Puzhal Police Station



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Chennai-600066

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, calling for all the records pertaining to the impugned order of detention in No.248/BCDFGISSSV/2024 dated 25.03.2024 passed by the Commissioner of Police, Greater Chennai, Vepery-600007, the second respondent herein and quash the same and direct the respondents to produce my husband Mr.Vanapattu, son of Perumal Nadar, who is detained in the Central Prison, Puzhal, Chennai 600066 before this Court and set him at liberty forthwith.

For petitioner : Mr.J.Thilagaraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the wife of the detenu namely Vanapattu, aged about 37 years, S/o.Perumal Nadar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 25.03.2024 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law



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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].

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 F.I.R. found in Volume I of the booklet has not been translated completely and also Page No.40 of the Volume II of the booklet is illegible. 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 a perusal of the Booklet, this Court finds that the F.I.R. found in Volume I of the booklet has not been completely translated. It is also seen that page No.40 of the Volume-II of the booklet is illegible. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this



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Court finds that the failure to furnish a proper translated copy and a legible copy, vitiates the Detention Order.

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.

..... **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. Accordingly, the detention order passed by the 2nd respondent in No.248/BCDFGISSSV/2024 dated 25.03.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vanapattu, aged about 37 years, S/o.Perumal Nadar, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

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

16.07.2024

Index: Yes/No

Neutral Citation: Yes/No

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To

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Home, Prohibition & Excise Department
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Chennai 600 009

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5.The Public Prosecutor
High Court of Madras
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