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HCP.No.1246 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.08.2024

CORAM :

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

H.C.P.No.1246 of 2024

Anjalai

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector and Magistrate of Cuddalore District,
Cuddalore.
- 3.The Superintendent of Police,
Cuddalore District,
Cuddalore.
- 4.The Superintendent of Central Prison,
Cuddalore.
- 5.The Inspector of Police,
Virudhachalam Prohibition Enforcement Wing,
Cuddalore District

... 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 relating to the detention order dated 04.05.2024 made in the detention order in No.C3/D.O/34/2024 under Section 2(b) of the Tamil Nadu Act.14/1982 as a “Bootlegger” passed by the 2nd respondent herein quash the same and direct the respondents to produce the body of the detainee Mohan son of Subramanian is aged 44 years who has been detained in Central Prison, Cuddalore before this Court and set at liberty.

For Petitioner : Mr.G.Ganapathy
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The order of detention passed by the 2nd respondent in proceedings No.C3/D.O/34/2024, dated 04.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that the arrest intimation order relied on for the purpose of issuing the impugned detention order furnished to the detainee has not been translated. Non furnishing of translated



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version of the intimation order caused prejudice to the interest of the detenue for submitting effective representation, which is a mandate under the statute.

3.The issue regarding serving of translated version of the documents in the preventive detention order has been dealt with by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Powanammal Vs. The State of Tamil Nadu and others reported in 1999 2 SCC 413***. The Apex Court held that non supply of the copy of the documents relied on in the grounds of detention has been held to be fatal to continued detention, the detenue need not show that any prejudice is caused to him. This is because 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. The Court further reiterated that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenue, should the document be in a different language. The Apex Court had not made any distinction between non serving of a document and the translated copy of the document in the known language of the detenue.



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4. In view of the said judgment of the Apex Court, the present Habeas Corpus Petition has to be considered. Consequently, the impugned order of detention in proceedings No.C3/D.O/34/2024, dated 04.05.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detenue viz., Mohan, son of Subramanian, aged 44 years now confined at Central Prison, Cuddalore 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.]

12.08.2024

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

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