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HCP.No.1225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

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

H.C.P.No.1225 of 2024

Amit Kumar

... Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
3. The Additional Superintendent,
Central Prison II, Puzhal,
Chennai.
4. The Inspector of Police,
Sponsoring Authority,
C1, Flower Police Station,
Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to produce the body or person of the petitioner who is detained in 3rd respondent/the Additional Superintendent, Central Prison II, Chennai before this Court and set him at liberty forthwith by calling for the records pursuant to the detention order in No.445/BCDFGISSSV/2024, dated 02.05.2024, on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.K.Anandharaja
for M/s.Murali Law firm

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. There is no admitted case against the detainee. However, the learned Additional Public Prosecutor submits that the detainee caused panic in the Railway Station, which resulted in detaining him under the Act 14 of 1982. However, the G.O. issued in G.O.(D).No.82, dated 15.04.2024, had not been translated and



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served on the detainee. The non serving of the translated version of the Government Order caused prejudice to the detainee for submitting effective representation as contemplated 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 detainee 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 detainee, 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 detainee.



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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.445/BCDFGISSSV/2024, dated 02.05.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detainee, namely, Amit Kumar, S/o.Sri Jaisingh, aged 29 years, now confined in Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

08.08.2024

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

To

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2. The Commissioner of Police,
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