



WEB COPY



HCP.No.1356 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.08.2024

CORAM :

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

H.C.P.No.1356 of 2024

Nagakanni

... Petitioner

Vs.

1 State Rep By.
The Secretary To Government,
Home Prohibition And Excise Department,
Fort St. George
Chennai 9

2 The Commissioner Of Police,
Salem City.

3 The Superintendent Of Police,
Central Prison, Salem.

4 The Inspector Of Police
Shevapet Police Station, Salem.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in C.M.P.NO. 47/GOONDA/SALEM CITY/2024 dated 13.05.2024 on the file of the Commissioner of Police,



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Salem city, the second respondent herein and quash the same as illegal and direct the respondent to produce the detainee Thiru.Boopathy, S/o.Seeni aged about 24 year, now confined at Central prison, Salem before this court and set him at liberty.

For Petitioner : M/s.S.Sengkodi

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 C.M.P.NO. 47/GOONDA/ SALEM CITY/2024 dated 13.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The Accident Registrar at Pg.No.32 and the remand warrant at Pg.No.27 in the typed set of papers have not been translated and furnished to the petitioner. Non furnishing of translated version of the documents caused prejudice to the interest of the detainee for submitting effective representation, which is a mandate under the statute.

3.The issue regarding serving of translated version of the documents in the



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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 detinue 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 detinue, 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 detinue.

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 C.M.P.NO. 47/GOONDA/ SALEM CITY/2024 dated 13.05.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The



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detenue viz., Boopathy, S/o.Seeni aged about 24 year, now confined at Central prison, Salem 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.]

14.08.2024

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

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 - 5 The Public Prosecutor,
Madras High Court



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