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HCP.No.1380 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1380 of 2024

Rajeshwari

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Vepery, Chennai – 600 007.

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

4.The Inspector of Police,
K-3, Aminjikarai Police Station,
Chennai – 600 041.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the 2nd respondent in No.262/BCDFGISSSV/2024 dated 28.03.2024 and quash the same and direct the respondents to produce



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the body and person of detenu namely Prabakaran @ Karuppu Appu @ Daniel, Male, aged about 22 years, S/o.Gunasekar, detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner	: Mr.B.M.Santharam
For Respondents	: Mr.A.Gokulakrishnan, Additional Public Prosecutor

ORDER

M.S.RAMESH, J.

and

SUNDER MOHAN, J.

The petitioner herein, who is the mother of the detenu namely Prabakaran @ Karuppu Appu @ Daniel, aged about 22 years, S/o.Gunasekar, has come forward with this petition challenging the detention order passed by the second respondent dated 28.03.2024 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law 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.



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3. Though several grounds are raised in this petition, the learned counsel for the petitioner focused mainly on the ground that the in remand report, the ground case for which the detenu has been remanded, has not been referred to and that there is no material to show that the detenu was in remand in the ground case. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the booklet particularly from the remand report, it is seen that the ground case for which the detenu was remanded, has not been referred to in the remand report and there is no material to show that the detenu was in remand in the ground case. This non-furnishing of vital document would deprive the detenu of making effective representation to the authorities against the order of detention.

5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in the case of '*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,*



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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. Accordingly, the detention order passed by the second respondent on 28.03.2024 in No.262/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu namely Prabakaran @ Karuppu Appu @ Daniel, Male, aged about 22 years, S/o.Gunasekar, 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]

19.07.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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and
SUNDER MOHAN, J.

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To

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5.The Public Prosecutor,
High Court, Madras.

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