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HCP.No.1453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1453 of 2024

Ambika

... Petitioner/
mother of the detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. District Collector and District Magistrate of
Villupuram District, Villupuram.
3. The Superintendent of Police,
Villupuram District, Villupuram.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Kiliyanur Police Station,
Villupuram District.

... 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 connection with the



HCP.No.1453 of 2024

order of detention passed by the second respondent dated 27.05.2024 in Rc.No.C2/19/2024 against the petitioner son Suriya, Male aged 24 years S/o.Parasuraman, who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner herein is the mother of the detenue viz., Suriya aged about 24 years now confined at Central Prison, Cuddalore has come forward with this petition challenging the detention order passed by the second respondent in proceedings Rc.No.C2/19/2024 dated 27.05.2024, branding him as "Bootlegger" under 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.



HCP.No.1453 of 2024

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the booklet served on the detenu would reveal that the documents enclosed in page nos.30 to 33 are illegible.

4. In view of the fact that illegible documents were served, the detenu has been deprived of submitting effective representation, which is a mandate under the statute.

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:



WEB COPY



HCP.No.1453 of 2024

“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.



HCP.No.1453 of 2024

..... **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.”*

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. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings Rc.No.C2/19/2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Suriya, aged 24 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.]

09.08.2024

Index : Yes/No



HCP.No.1453 of 2024

Speaking Order : Yes/No

Neutral Citation : Yes/No

WEB COPY

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HCP.No.1453 of 2024

WEB COPY

To

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6. The Additional Public Prosecutor,
Madras High Court.



WEB COPY



HCP.No.1453 of 2024

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H.C.P.No.1453 of 2024

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