



HCP.No.1575 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

H.C.P.No.1575 of 2024

Deelip Dewasi

... Petitioner/Brother of the
detenue

Vs.

1. State of Tamil Nadu
Rep. by the Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai,
Tamil Nadu – 600 009.
2. State of Tamil Nadu,
Rep. by the Commissioner of Police,
Greater Chennai Police
Tamilnadu.
3. State of Tamil Nadu,
Rep. by the Superintendent of Prisons,
Central Prison, Puzhal,
Tamilnadu.
4. State of Tamil Nadu,
Rep. by the Inspector of Police,
D-2 Anna Salai Police Station,
Tamilnadu.

... Respondents



HCP.No.1575 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records of pertaining to the order of detention dated 14.06.2024 passed by the 2nd respondent in TPDA 5945 in Memo No.672/BCDFGISSSV/2024 and quash the same and produce the detenue namely Dinesh Son of Sultan Ram Dewari who is detained in central prison, Puzhal before this Court and set him at liberty

For Petitioner : Mr.M.S.Akash Daniel
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the brother of the detenu namely Dinesh, aged about 29 years, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 14.06.2024 slapped on his brother, branding him as "Goonda" under the 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.1575 of 2024

3. The learned counsel for the petitioner submitted that the booklet served on the detinue has been improperly translated. More specifically, the index annexed along with the typeset has not been properly translated, which resulted in causing prejudice to the detinue to submit his representation in an effective manner.

4. Procedural violations traceable in respect of preventive detention are fatal. Article 22 in unambiguous terms stipulates that strict adherence of procedures are mandatory, in view of the fact that the personal liberty of a person is involved. Courts time and again reiterated that the procedural violations are to be held in favour of the detenu.

5. In the present case, even the index enclosed along with the booklet served on the detinue has not been properly translated in the language known to the detinue.

6. 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



HCP.No.1575 of 2024

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



WEB COPY



HCP.No.1575 of 2024

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, 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.”*

7. 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.

8. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 14.06.2024 in proceedings



HCP.No.1575 of 2024

No.672/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Dinesh S/o Sulthanram, aged 29 years, confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [R.S.V., J.]
19.08.2024

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

veda



HCP.No.1575 of 2024

To

1. The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai,
Tamil Nadu – 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai Police
Tamilnadu.
4. The Superintendent of Prisons,
Central Prison, Puzhal,
Tamilnadu.
5. The Inspector of Police,
D-2 Anna Salai Police Station,
Tamilnadu.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



WEB COPY



HCP.No.1575 of 2024

S.M.SUBRAMANIAM, J.
AND
R.SAKTHIVEL, J.

veda

H.C.P.No.1575 of 2024

19.08.2024