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H.C.P.No.1593 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM :

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

H.C.P.No.1593 of 2024

Ajith Kumar

.. Petitioner/
Brother of detainee

Versus

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,
Vepery, Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Inspector of Police,
V-5 Thirumangalam Police Station,
Chennai district.

.. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 05.03.2024 in B.C.D.F.G.I.S.S.S.V. No.162 of 2024



H.C.P.No.1593 of 2024

against the petitioner's brother Vijay, son of Iyyanar, aged about 27 years who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.G.Vasudevan

For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the brother of the detenue namely Vijay, S/o.Iyyannar, aged about 27 years, has come forward with this petition challenging the detention order passed by the second respondent dated 05.03.2024 slapped on his brother, 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.



H.C.P.No.1593 of 2024

WEB COPY

3. Though several grounds have been raised in this Habeas Corpus Petition, the learned counsel for the petitioner stated that the detention order is liable to be quashed on the ground that the detenu was furnished with improper translated copy of the Accident Register. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that the Accident Register has been improperly translated. The nature of injury and treatment has not been translated in vernacular language. This furnishing of improper translated copy of the 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



H.C.P.No.1593 of 2024

WEB COPY

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, therefore, direct that the detenu be set free forthwith unless she is



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H.C.P.No.1593 of 2024

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 05.03.2024 in No.162/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue namely Vijay, aged about 27 years, S/o.Iyyanar, 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]
22.07.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

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



H.C.P.No.1593 of 2024

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5. The Public Prosecutor,
High Court of Madras.



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H.C.P.No.1593 of 2024

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AND
SUNDER MOHAN, J.**

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H.C.P.No.1593 of 2024

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