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HCP.No.1622 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1622 of 2024

Uma Maheshwari

... Petitioner/Wife of the
detenue

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
J-1, Saidapet Police Station,
Chennai,
Crime No. 189 of 2024.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the second respondent in his proceedings in No.662/BCDFGISSSV/2024 dated 11.06.2024 and quash the same as illegal and produce the detainee, namely Manikandan, S/o.Jayapal, aged 30 years, as GOONDA, now he is confined in Central Prison, Puzhal-II, Chennai before this Court and set him at liberty

For Petitioner : Mr.S.Lokesh
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent is under challenge in the present Habeas Corpus Petition.

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. The statement obtained from the relative of the detainee, which is enclosed at Page No.145 of the typeset of paper is undated. Further, the document at Page No.146 is illegible. Thus, the detainee has been deprived of submitting representation in an effective manner.

4. 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 detainee 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 detainee, 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 detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed.”*



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5. 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.

6. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings No.662/BCDFGISSSV/2024 dated 11.06.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Manikandan, S/o.Jayapal, aged 30 years, now confined in Central Prison, Puzhal-II, Chennai 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.]

21.08.2024

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



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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
J-1, Saidapet Police Station,
Chennai.
5. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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