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HCP.No.1635 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1635 of 2024

Settu

... Petitioner/Father of
the detenue

Vs.

1. The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Cheanni – 600 009.
2. District Collector and District Magistrate of
Vellore District, Vellore.
3. The Superintendent of Police,
Vellore District, Vellore.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police,
Sathuvacheri Police Station,
Vellore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Habeas Corpus, call for the records in connection with the order of Detention passed by the second respondent dated 23.06.2024 in C3/D.O.No. 35/2024 against the petitioner son Ashokkumar, Male aged 30 years S/o. Settu, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before the Court and set at Liberty.

For Petitioner : Mr.P.Raman
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 documents enclosed at Page Nos.64, 65 and 66 of Volume -

I of the booklet served on the detainee is illegible. Further, the ground case bail application enclosed at Page Nos. 74 and 75 of the booklet served on the detainee has not been translated in the language known to the detainee, which caused prejudice to the detainee to submit his representation in an effective manner, which is a valuable right.

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*



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Vellore District, Vellore.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police,
Sathuvacheri Police Station,
Vellore District.
6. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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