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HCP.No.1637 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM :

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

**H.C.P.No.1637 of 2024**

Lavanya

... Petitioner

***Vs.***

1. Government of Tamil Nadu,  
Rep. by its Secretary,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai – 600 009.
2. The Commissioner of Police/Detaining Authority,  
Office of the Commissioner of Police/Detaining Authority,  
Tiruppur City,  
Tiruppur District.
3. The Superintendent of Prisons,  
Special Prison of Women,  
Coimbatore,  
Coimbatore District.
4. Inspector of Police,  
Tiruppur City South Police Station,  
Tiruppur District.  
Crime No.123 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, calling for the records in C.No.12/I.T.O./IS/Tiruppur City/2024 dated 15.03.2024 on the file of the 2<sup>nd</sup> respondent and quash the same and direct the respondents herein to produce the petitioner's mother/detenué namely Megala, Female, aged about 39 years, W/o.Pugazhendi, who is now confined in Special Prison for Women, Coimbatore, before this Court and set her at liberty.

For Petitioner : Mr.S.Silambuselvan  
For Respondents : Mr.A.Gokulakrishnan,  
Additional Public Prosecutor

### **ORDER**

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

The petitioner herein, who is the daughter of the detenué namely Megala, aged about 39 years, W/o.Pugazhendi, has come forward with this petition challenging the detention order passed by the second respondent dated 15.03.2024 slapped on her mother, branding her as "Immoral Traffic Offender" 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,



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Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the English version of the remand order given to the detenue has not been fully translated. In this circumstances, the learned counsel for the petitioner stated that serious prejudice has been caused to the petitioner for making effective representation.

4. On a perusal of the Booklet, it is seen that the English version of the remand order furnished to the detenue, has not been fully translated. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish a proper translated copy of the remand order, vitiates the Detention Order.



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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:

*“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*



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*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.”*

**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.



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7. Accordingly, the detention order passed by the second respondent on 15.03.2024 in C.No.12/I.T.O./IS/Tiruppur City/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz., Megala, aged about 39 years, W/o.Pugazhendi, is directed to be set at liberty forthwith, unless her confinement is required in connection with any other case.

[M.S.R., J] [S.M., J]  
25.07.2024

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No

***Sni***

Note:- Registry shall forthwith return the booklet containing the materials, on which, the Detaining Authority has placed reliance, to the petitioner/counsel for the petitioner with due acknowledgment.



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To

- 1.The Secretary to Government of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai – 600 009.
- 2.The Commissioner of Police/Detaining Authority,  
Office of the Commissioner of Police/Detaining Authority,  
Tiruppur City,  
Tiruppur District.
- 3.The Superintendent of Prisons,  
Special Prison of Women,  
Coimbatore,  
Coimbatore District.
- 4.Inspector of Police,  
Tiruppur City South Police Station,  
Tiruppur District.
- 5.The Public Prosecutor,  
High Court, Madras.



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**M.S.RAMESH, J.**  
**and**  
**SUNDER MOHAN, J.**

*Sni*

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