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H.C.P.No.1654 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.1654 of 2024

Chitra

... Petitioner

Vs.

1.State of Tamil Nadu represented
By Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4.State Rep. by Inspector of Police,
H6, RK Nagar Police Station,
Chennai.

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, calling for the records of the 2nd respondent pertaining to the order made in Memo



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No.608/BCDFGISSSV/2024, dated 30.05.2024 in detaining the detenue under the Tamil Nadu Act 14 of 1982 as a brand of Goonda and quash the same and direct the respondents to produce the detenue, Kumara @ Kumaran, aged 27 years, who is detained at the Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Ramachandran

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The order of detention passed by the 2nd respondent in proceedings Memo No.608/BCDFGISSSV/2024, dated 30.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. The learned counsel for the petitioner would submit that many of the cases are foisted against the detenu and he was not involved in any such offences. The learned counsel for the petitioner would submit based on the instruction that the detenu will behave properly hereinafter despite the fact that he has involved in some previous case.



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3. Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing on behalf of the respondents would raise an objection by stating that the detenu had involved in several other cases on previous occasions.

4. In reply, the learned counsel for the petitioner would submit that the detenu is a auto driver and some occasions, he was called by the Police Officials and false cases are registered.

5. Since those cases are not relied upon by the Detaining Authority, it is unnecessary for this Court to consider those cases. That apart, those cases have no close proximity with the ground case.

6. Based on the ground case, the detenu was detained vide proceedings dated 30.05.2024. No adverse case has been relied on by the Detaining Authority, while invoking Act 14 of 1982. Perusal of the ground case would reveal that it relates to some personal vendetta. Therefore, the said ground case by itself may not be sufficient to invoke the preventive detentions law.

7. The learned counsel for the petitioner would submit that the translation copy of the Government Order enclosed in the booklet has not



been furnished to the detenu. The detenu has no knowledge in reading English and non translation of the Government Order caused prejudice to the detenu from submitting effective representation, which is a valuable right under the Act.

8. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court of India in the case of ***Powanammal vs. State of Tamil Nadu***¹. 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

1 [(1999) 2 SCC 413]



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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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9. 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.

10. Hence, for the aforesaid reason, the Detention Order passed by the 2nd respondent in Memo No.608/BCDFGISSSV/2024, dated 30.05.2024 is quashed and the Habeas Corpus Petition is allowed. The detainee viz., Mr.Kumara @ Kumaran, S/o.Govindaraj, aged about 27 years, who is 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.] [V.S.G., J.]
27.08.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Secretary to Government,
State of Tamil Nadu represented
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.



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2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
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4.The Inspector of Police,
State,
H6, RK Nagar Police Station,
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5.The Public Prosecutor,
Madras High Court.



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