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HCP.No.1697 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.1697 of 2024

Mathiyazhagi

... Petitioner/Wife of the
detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
2. District Collector and District Magistrate of
Kallakurichi District, Kallakurichi.
3. The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Ulundurpet PEW Police Station,
Kallakurichi District.

... Respondents



HCP.No.1697 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 29.06.2024 in D.O.No.C2/20/2024 against the petitioner husband Annadurai, male aged 46 years S/o. Kasinathan, who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji
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.



HCP.No.1697 of 2024

3. The Arrest Intimation Form enclosed at page no.49 of the booklet served on the detenu has not been translated in the language known to the detenu. Therefore, the detenu is deprived from making effective representation and that the Detention Order passed by the Detaining Authority is vitiated. Further, the detenu is studying MCA course, which is also to be taken into consideration.

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 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



HCP.No.1697 of 2024

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*



HCP.No.1697 of 2024

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.”

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 reasons, the detention order passed by the second respondent on 29.06.2024 in proceedings D.O.No.C2/20/2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Annadurai, aged 46 years, S/o. Kasinathan who is confined at Central Prison, Cuddalore is directed to be set at liberty forthwith, unless he is required in connection with any other case.

J.]

[S.M.S., J.]

[V.S.G.,

21.08.2024



HCP.No.1697 of 2024

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

veda

To

1. The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009.
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3. The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Ulundurpet PEW Police Station,
Kallakurichi 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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HCP.No.1697 of 2024

S.M.SUBRAMANIAM, J.
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H.C.P.No.1697 of 2024

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