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HCP.No.1748 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM :

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

H.C.P.No.1748 of 2024

M.Maveeran

... Petitioner/Father of the detenue

Vs.

1.The Secretary to the Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police/
Detaining Authority,
Coimbatore City.

3.The Superintendent of Prison,
Coimbatore Central Prison,
Coimbatore District.

4.The Inspector of Police,
R.S.Puram Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order C.No.17/G/IS/2024 on 27.02.2024 on the file of



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the Respondent No.2 and quash the same and direct the respondents to produce the body and person of petitioner son one named Mr.Shanmugam @ Sandiyar @ Ajith S/o.Maveeran aged about 26 years now confined at Central Prison, Coimbatore before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the father of the detenu namely M.Shanmugam @ Sandiyar @ Ajith, S/o.Maaveeran, aged about 26 years, detained at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the second respondent dated 27.02.2024 slapped on his son, branding him as "GOONDA" 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, Slum Grabbers and



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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 submitted that the order of Detention passed by the Detaining Authority is vitiated for material irregularities, as the copy of the Court endorsement, has not been properly translated. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.

4. On a perusal of the Booklet, particularly in page No.119, this Court finds that the copy of the Court endorsement, was in Tamil, however, some portion of the Court endorsement is in English and the same is not translated in Tamil. Therefore, this Court is of the view that the improper translation of the copy of the vital document relied upon by the Detaining Authority to arrive at a subjective satisfaction, would deprive the detenu of his valuable right to make effective representation. It is in the



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said circumstances, this Court finds that the Detention Order passed by the Detaining Authority is vitiated.

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



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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.”*

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



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order is liable to be quashed.

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7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 27.02.2024 in C.No.17/G/IS/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., M.Shanmugam @ Sandiyar @ Ajith, S/o.Maaveeran, aged about 26 years, now detained at Central Prison, Coimbatore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J]

[S.M., J]

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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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.

To

1.The Secretary to the Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police/
Detaining Authority,
Coimbatore City.

3.The Superintendent of Prison,
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Coimbatore District.

4.The Inspector of Police,
R.S.Puram Police Station,
Chennai.

5.The Public Prosecutor,
High Court, Madras.



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