



HCP.No.1749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1749 of 2024

Jyoti Dora

... Petitioner/Wife
of the Detenue

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai.
2. District Collector and District Magistrate,
Office of the District Collector and District
Magistrate,
Coimbatore.
3. The Superintendent of Police,
Coimbatore.
4. Superintendent of Prison,
Central Prison,
Coimbatore.
5. Inspector of Police,
Periyanaickenpalayam Prohibition and Enforcement Wing,
Coimbatore District.
... Respondents



HCP.No.1749 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 2nd respondent made in his order Cr.M.P.No.35/D.O./2024 dated 01.07.2024 against the petitioner's husband Mr.Abhijith Dora S/o. Sanatan Dora aged about 27 years who is confined at Central Prison, Coimbatore under Tamil Nadu Act 14 of 1982 as DRUG OFFENDER and to quash the same and direct the respondents to produce the detinue Mr.Abhijith Dora S/o. Sanatan Dora aged about 27 years before this Court and set him at liberty.

For Petitioner : Mr.P.Thinesh

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 dated 01.07.2024 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.1749 of 2024

3. The mother tongue of the detenu is Odia. The detention order passed by the second respondent has not been translated in the language known to the detenu. Thus, the detenu is deprived from making effective representation and that the Detention Order passed by the Detaining Authority is vitiated.

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 detention and a document which finds a mere reference



HCP.No.1749 of 2024

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*



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HCP.No.1749 of 2024

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 dated 01.07.2024 in proceedings Cr.M.P.No.35/D.O/2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Abhijith Dora, aged 27 years, S/o. Sanatan Dora confined at Central Prison, Coimbatore 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.]
05.09.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda



HCP.No.1749 of 2024

To

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1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. District Collector and District Magistrate,
Office of the District Collector and District
Magistrate,
Coimbatore.
4. The Superintendent of Police,
Coimbatore.
5. Superintendent of Prison,
Central Prison,
Coimbatore.
6. Inspector of Police,
Periyanaickenpalayam Prohibition and Enforcement Wing,
Coimbatore District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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HCP.No.1749 of 2024

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AND
V.SIVAGNANAM, J.

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H.C.P.No.1749 of 2024

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