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HCP.Nos.1831 & 1847 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.Nos.1831 & 1847 of 2024

K.Sindhu ... Petitioner in HCP.No.1831 of 2024
Anitha ... Petitioner in HCP.No.1847 of 2024
Vs.

1.The Secretary to the Government,
Government of Tamil Nadu,
(Home) Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The Commissioner of Police,
Avadi City,
Avadi.

3.The Inspector of Police,
M-6, Manali Police Station,
Chennai.

4.The Superintendent of Prison,
Central Prison Puzhal,
Chennai – 600 066.

... Respondents in both respondents

PRAYER in HCP.No.1831 of 2024: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records connected with the order of the 2nd respondent herein in Memo No.58/BCDFGISSSV/2024 dated 29.05.2024 passed against the



HCP.Nos.1831 & 1847 of 2024

petitioner's husband/detenu namely DHARMESH BABU @ BABU son of Kamalakannan, aged about 25 years, as a “GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066 and set aside the same, Consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set her at liberty.

PRAYER in HCP.No.1847 of 2024: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records connected with the order of the 2nd respondent herein in Memo No.57/BCDFGISSSV/2024 dated 29.05.2024 passed against the petitioner's husband/detenu namely DHARMA son of Kamalakannan, aged about 27 years, as a “GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066 and set aside the same, Consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set her at liberty.

(For both sides)

For Petitioner : Mr.A.Murugavel

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

COMMON ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The petitioners herein is the son of the detenu viz., DHARMESH BABU @ BABU son of Kamalakannan, aged about 25 years, as a



HCP.Nos.1831 & 1847 of 2024

“GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066, and detenu viz., DHARMA son of Kamalakannan, aged about 27 years, as a “GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066, have come forward with these petitions challenging the detention order passed by the second respondent in Memo Memo No.58/BCDFGISSSV/2024 dated 29.05.2024 and Memo No.57/BCDFGISSSV/2024 dated 29.05.2024 respectively.

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

3.The report submitted by the Sponsoring Authority, which is enclosed with the typeset of paper is undated. Thus, the detenues have been deprived of submitting representation in an effective manner.

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



HCP.Nos.1831 & 1847 of 2024

detenue 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 detenue, 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 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



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HCP.Nos.1831 & 1847 of 2024

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.”*

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 orders are liable to be quashed.

6. Hence, for the aforesaid reason, the detention orders passed by the second respondent in proceedings Memo No.58/BCDFGISSSV/2024 dated 29.05.2024 and Memo No.57/BCDFGISSSV/2024 dated 29.05.2024 are quashed and the Habeas Corpus Petitions are **allowed**. The detenue viz., DHARMESH BABU @ BABU son of Kamalakannan, aged about 25 years, as a “GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066, and detenu viz., DHARMA son of Kamalakannan, aged



HCP.Nos.1831 & 1847 of 2024

about 27 years, as a “GOONDA” who is confined at Central Prison, Puzhal, Chennai-600066, is directed to be set at liberty forthwith, unless their confinement is required in connection with any other case. In the event of any apprehension or otherwise, the respondents may file an application to cancel the bail or to impose stringent conditions or otherwise. In such nature of cases, surveillance can be made by the Jurisdictional police, so as to ensure that the offenders do not repeat the crime.

[S.M.S., J.]

[V.S.G., J.]

20.08.2024

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To

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(Home) Prohibition and Excise Department,
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2.The Commissioner of Police,
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Avadi.

3.The Inspector of Police,
M-6, Manali Police Station,
Chennai.

4.The Superintendent of Prison,
Central Prison Puzhal,
Chennai – 600 066.

5.The Public Prosecutor,
Madras High Court.

S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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