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H.C.P.No.1991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.1991 of 2024

Bharathi

... Petitioner

Vs.

1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai – 9.

2.The District Collector and District Magistrate of Vellore District,
Vellore.

3.The Superintendent of Police,
Vellore District, Vellore.

4.The Inspector of Police,
K.V. Kuppam Police Station,
Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the second respondent dated 21.07.2024 in C2/D.O.No.49/2024 against the petitioner husband Prakasam, Male aged 27 years S/o. Rajendran, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before this Court and set him at Liberty and pass such further or other orders as this Court may deem fit and proper in the above stated circumstance.



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For Petitioner : Mr. P. Raman
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 C2/D.O.No.49/2024 dated 1.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that the adverse cases relied on, were registered during the years 2019, 2020 and 2021. Thus, there is no proximity with the ground case and thus, forming of opinion is not based on relevant materials. That apart, the translation copy of the seizure magazer in Pg.No.4 of the typed set has not been furnished to the detainee. The detainee has no knowledge in reading English and non translation of the Government Order caused prejudice to the detainee from submitting effective representation, which is a valuable right under the Act.



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3. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in '**Powanammal Vs. State of Tamil Nadu**'. 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 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,



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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.”*

4. 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.

5. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings C2/D.O.No.49/2024 dated 1.07.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz.,



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Prakasam, Male aged 27 years S/o. Rajendran, who is confined at Central Prison, Vellore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[N.S., J.]

29.08.2024

Index: Yes/No

Speaking/Non-speaking order

Neutral Case Citation: Yes/No

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To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department, Secretariat, Chennai – 9.
- 2.The District Collector and District Magistrate of Vellore District, Vellore.
- 3.The Superintendent of Police,Vellore District, Vellore.
- 4.The Inspector of Police,
K.V. Kuppam Police Station,Vellore District.
- 5.The Public Prosecutor, Madras High Court, Chennai - 104.



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