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HCP.No.2044 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

and

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2044 of 2024

P. Mota Ram

... Petitioner

Vs.

1. The State Represented by Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George, Chennai -9
2. The District Magistrate and District Collector,
Office of the District Collector and District Magistrate,
Erode District, Erode.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Erode District.
4. The Superintendent of prison,
Central Prison, Coimbatore District.
5. The Inspector of Police,
Varappalayam Police Station,
Erode District.

... Respondents



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PRAAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the Detention Order passed by the second respondent on 22.07.2024 in Cr.M.P.No.37/Goonda/2024 C1 and to quash the same and direct the respondents to produce the body of the detenue Nopa Ram, aged 27 years, S/o.Punamaram, before this Court and set him at liberty, now detained at Central Prison, Coimbatore.

For Petitioner : Mr.C. Iyyapparaj
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

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ORDER

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

The preventive detention order passed by the second respondent dated 22.07.2024 is sought to be quashed 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.



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3. The detainee, in his confession statement, has stated that he is native of State of Rajasthan and known language is Hindi. However, none of the documents relied on by the Detention Authority has been translated into the language known to the detainee, which caused prejudice to the detainee to submit his 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 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



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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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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. Accordingly, the detention order passed by the second respondent in Cr.M.P.No.37/Goonda/2024 C1, dated 22.07.2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Nopa Ram, aged 27 years, S/o. Punamaram, 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.]
06.09.2024

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

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

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To

1. The Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George, Chennai -9
2. The District Magistrate and District Collector,
Office of the District Collector and District Magistrate,
Erode District, Erode.
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