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HCP.No.2070 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MRS. JUSTICE N.MALA

H.C.P.No.2070 of 2024

Suganthi

... Petitioner/Sister of
the Detenue

Vs.

1. State of Tamilnadu,
Represented by the Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Villupuram District, Villupuram.
3. The Superintendent of Police,
Villupuram, Villupuram District.
4. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore District.
5. The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Rc.No.C2/30/2024, dated 15.07.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's brother Suriya S/o. Kumar aged about 23 years the detenu, now confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.N.Santhosh
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 15.07.2024 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.

3. The arrest intimation form enclosed at page no.33 in volume -II of the booklet served on the detenu has not been translated in the language



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known to the detenu. Thus, the detenu has been deprived of submitting 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 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 is required to be detained in any other case. The appeal is accordingly allowed.”*

5. Further, the similar case referred would reveal that the bail was granted, since there was no previous case. However, in the case of the



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petitioner, previous case has been referred. Thus, it is dissimilar which resulted in non-application of mind.

6. For the aforesaid reasons,, the detention order passed by the second respondent in proceedings Rc.No.C2/30/2024 dated 15.07.2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Suriya, aged 23 years, s/o. Kumar confined at Central Prison, Cuddalore is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.] [N.M., J.]
18.09.2024

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



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To

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1. The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
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,
Villupuram District, Villupuram.
4. The Superintendent of Police,
Villupuram, Villupuram District.
5. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore District.
6. The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
N.MALA., J.

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