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HCP.No.2079 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

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

H.C.P.No.2079 of 2024

Kaviya Mathaiyan

... Petitioner

Vs.

1. The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai – 9.
2. The District Collector and District Magistrate
Office of D.C. & D.M., Krishnagiri District.
3. The Superintendent,
Central Prison, Salem.
4. The Superintendent of Police,
Krishnagiri District.
5. The Inspector of Police,
PEW Hosur Police Station, Krishnagiri District.

... Respondents

PRAYER: Petition 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 2nd respondent against the detenu, dated 19.06.2024 in detention order in S.C.No.23/2024 and set aside the same and produce the detenu K.Manikandan, Male, aged about 27 years S/o.Kuppusamy now detained in Central Prison, Salem before this Court and set him at liberty.



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HCP.No.2079 of 2024

For Petitioner : Mr.R.Radhapandian
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 second respondent in S.C.No.23/2024, dated 19.06.2024, is sought to be quashed in the present Habeas Corpus Petition.

2. Page No.14 in booklet No.I has not been translated in the language known to the detenu. Thus, the detenu is deprived of submitting an effective representation, which is a valuable right provided to the detenu under Act 14 of 1982.

3. The issue regarding serving of translated version of the documents in the preventive detention order has been dealt with by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of *Powanammal Vs. The State of Tamil Nadu and others reported in 1999 2 SCC 413*. The Apex Court held that non supply of the copy of the documents relied on 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 non- supply of such a document would amount to denial of the right of being communicated the grounds and of being



HCP.No.2079 of 2024

afforded the opportunity of making an effective representation against the order.

WEB The Court further reiterated that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu, should the document be in a different language. The Apex Court had not made any distinction between non serving of a document and the translated copy of the document in the known language of the detenu.

4.In view of the said judgment of the Apex Court, the present Habeas Corpus Petition has to be considered. Consequently, the impugned order of detention in S.C.No.23/2024, dated 19.06.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detenu, namely, K.Manikandan, Male, aged about 27 years S/o.Kuppusamy, now confined in Central Prison, Salem, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

09.09.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



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HCP.No.2079 of 2024

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

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To

1. The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai – 9.
2. The District Collector and District Magistrate
Office of D.C. & D.M., Krishnagiri District.
3. The Superintendent,
Central Prison, Salem.
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Krishnagiri District.
5. The Inspector of Police,
PEW Hosur Police Station,
Krishnagiri District.
6. The Public Prosecutor,
High Court, Madras.

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