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H.C.P.No.2221 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 14.10.2024**

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**H.C.P.No.2221 of 2024**

Shanthi

... Petitioner

Vs.

1.The State of Tamil Nadu  
Represented by Secretary to Government,  
Home Prohibition and Excise Department,  
Fort St. George,  
Chennai – 600 009.

2.The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police,  
(Goondas Section),  
Vepery, Chennai – 600 007.

3.The Superintendent of Police,  
Central Prison, Puzhal,  
Chennai.

4.The Inspector of Police,  
R-6, Kumaran Nagar Police Station,  
Chennai District.

... Respondents



H.C.P.No.2221 of 2024

**Prayer:** Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order dated 29.05.2024 passed by the second respondent in B.C.D.F.G.I.S.S.S.V.No.597 of 2024 and quash the same and direct the respondents herein to produce the petitioner's Son Gokul, S/o.Sankar, aged 23 years, who is presently under going detention in the Central Prison, Puzhal, before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Gayathri

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 2<sup>nd</sup> respondent in proceedings B.C.D.F.G.I.S.S.S.V.No.597 of 2024 dated 29.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The 161 statement relied by the detaining authority, which is enclosed in the typeset of paper in Page No.121 is undated. Thus, the detainee has been deprived of submitting representation in an effective manner.



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*



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*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.”*

**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 B.C.D.F.G.I.S.S.V.No.597 of 2024



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dated 29.05.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Gokul, S/o.Sankar, aged 23 years, who is presently under going detention in the Central Prison, Puzhal, 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.]  
14.10.2024

GD

Index : Yes

Neutral Citation : Yes

Speaking order / Non-speaking order

To

- 1.The Secretary to Government,  
The State of Tamil Nadu  
Home Prohibition and Excise Department,  
Fort St. George,  
Chennai – 600 009.
- 2.The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police,  
(Goondas Section),  
Vepery, Chennai – 600 007.
- 3.The Superintendent of Police,  
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- 5.The Public Prosecutor,  
Madras High Court.



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

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