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HCP.No.2290 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2290 of 2024

Rathna

... Petitioner/Daughter of the
Detenue

Vs.

1. The Additional Secretary to the Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution (Department of
Consumer Affairs),
Room No.270, "Krishi Bhavan",
New Delhi - 110 001.
2. The Principal Secretary to the Government,
Department of Co-operation,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavignar Maaligai,
Secretariat, Chennai - 600 009.
3. District Collector and District Magistrate of
Vellore District, Vellore.
4. The Superintendent of Police,
Vellore District, Vellore.



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5. The Superintendent of Prison,
Central Prison, Vellore.
6. The Inspector of Police,
Civil Supplies CID Police Station,
Vellore and 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 in connection with the order of detention passed by the third respondent 05.08.2024 in C3.D.O.No.77/2024 against the petitioner father Shanmugam, Male, aged 52 years, S/o. Kandeegan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	: Mr.P.Raman
For Respondents	: Mr.KSubburanga Bharathi Central Government Counsel [for R1] : Mr.R.Muniyapparaj Additional Public Prosecutor [for R2 to R6]

ORDER

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

The preventive detention order passed by the third respondent dated 05.08.2024 is sought to be quashed in the present habeas corpus petition.



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2. Heard both sides.

3. Some of the documents enclosed in Volume - I of the booklet served on the detenu are illegible and the detenu is unable to know about the contentions in a clear manner, which resulted in causing prejudice to the detenu to submit representation in an effective manner, which is a valuable right conferred under Act 14 of 1982.

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 detenue 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 detenue, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:



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“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



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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. 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. Hence, for the aforesaid reason, the detention order passed by the third respondent in proceedings C3/ D.O.No.77/2024 dated 05.08.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Shanmugam, aged 52 years, S/o. Kandeegan 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.] [M.J.R., J.]
19.11.2024

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

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7. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.



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