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HCP.No.2378 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM :

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

H.C.P.No.2378 of 2024

Sangeetha

... Petitioner/Wife of the
detenu

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Prohibition and Excise Department (Home),
Fort St.George,
Chennai - 9.
2. The District Collector and District Magistrate,
Tiruvarur District,
Tiruvarur.
3. The Superintendent of Police,
Tiruvarur District,
Tiruvarur.
4. The Superintendent of Prison,
Central Prison,
Trichy.



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5. The State represented by,
The Inspector of Police,
Kottur Police Station,
Tiruvarur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, direction to produce the body of the detenu namely (Thiru.Mohanasundaram aged about 40 years son of Krishnan) before this Court and set him at liberty forthwith, by calling for the records pertaining to the detention order C.O.C.No.13/2024 dated 29.06.2024 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.C.Ramaraj

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 29.06.2024 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 Government Order in G.O.(D).No.124, Home, Prohibition



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and Excise (XVI) Department dated 15.04.2024 enclosed at page nos.53 & 54 in volume-II of the Booklet served on the detenu has not been translated in the language known to the detenu. Thus, the detenu is deprived from making effective representation and that the Detention Order passed by the Detaining Authority is vitiated.

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*



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To

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1. The Secretary to Government,
Prohibition and Excise Department (Home),
Fort St.George,
Chennai - 9.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector and District Magistrate,
Tiruvarur District,
Tiruvarur.
4. The Superintendent of Police,
Tiruvarur District,
Tiruvarur.
5. The Superintendent of Prison,
Central Prison,
Trichy.
6. The Inspector of Police,
Kottur Police Station,
Tiruvarur District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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