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HCP.No.2459 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM :

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

H.C.P.No.2459 of 2024

Nirmala

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat., Fort St.George,
Chennai – 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai – 600 066.

4.The Inspector of Police,
T-10, Thirumullaivoyal Police Station,
Avadi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the entire records relating to the
impugned order of detention passed by the second respondent in memo no



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80/BCDFGISSSV/2024 dated 21.06.2024 and set aside the same and consequently direct the respondents to produce the detenu Gokul, son of Ramesh aged about 28 years, petitioner's son now confined at Central Prison, puzhal, chennai before this court and set her at liberty.

For Petitioner : Mr.P.Thompson

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 2nd respondent in proceedings No.80/BCDFGISSSV/2024 dated 21.06.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The special report relied by the detaining authority, which is enclosed in the typeset of paper is undated. Thus, the detenue 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



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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.

11999 2 SCC 413



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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.”*

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



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second respondent in proceedings No.80/BCDFGISSSV/2024 dated 21.06.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Gokul, son of Ramesh aged about 28 years, petitioner's son now confined at Central Prison, puzhal, chennai, 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.]

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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

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To

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Office of the Commissioner of Police,
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- 5.The Public Prosecutor,
Madras High Court.

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