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HCP.No.1962 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1962 of 2023

Usha

... Petitioner

Vs.

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Tiruvallur,
Tiruvallur District.
- 3.The Superintendent of Police,
Tiruvallur,
Tiruvallur District.
- 4.The Superintendent of Prison,
Central Prison – II, Puzhal,
Chennai District.
- 5.State rep. by its
The Inspector of Police,
Thiruvallur Taluk Police Station,
Thiruvallur District.

... Respondents



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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 petitioner's son's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 11.09.2023 on the file of the second respondent herein made in proceedings Memo B.C.D.F.G.I.S.S.S.V.No.28/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Arun @ Rajesh, S/o.Dhanasekar, aged 27 years, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison - II, Puzhal, Chennai.

For Petitioner : Mr.R. Sasikumar

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

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

The petitioner herein, who is the mother of the detenu Arun @ Rajesh, aged 27 years, S/o.Dhanasekar, has come forward with this petition challenging the detention order passed by the second respondent dated 11.09.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law



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Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that though the Detaining Authority has referred to the order passed in a similar case in CrI.M.P.No.3333 of 2023, dated 04.08.2023, the translated copy of the order relied upon by the Detaining Authority has not been furnished to the petitioner in vernacular language, as seen from the Booklet. It is in this circumstances, the learned counsel stated that serious prejudice has been caused to the petitioner for making effective representation.

4. The above issue is already covered by the Hon'ble Supreme Court in the case of '*Powanammal Vs. State of Tamil Nadu*' reported in '*(1999) 2*



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SCC 413', wherein, the Hon'ble Supreme Court has held 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. In the said judgment, the Hon'ble Supreme Court has further held as follows :

“6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.....

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.”

5. On a perusal of the Booklet, in particular, Page No.131, it is seen that the order relied upon by the Detaining Authority is in English and the translated copy of the said document is not furnished to the detenu for making effective representation. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish translated copy of the order passed in the similar case also vitiates



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the Detention Order.

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6. 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.

7. Accordingly, the detention order passed by the second respondent on 11.09.2023 in B.C.D.F.G.I.S.S.S.V.No.28/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Arun @ Rajesh, aged 27 years, S/o.Dhanasekar, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
12.01.2024

Index: Yes/No

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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To

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Tiruvallur, Tiruvallur District.
- 3.The Superintendent of Police,
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- 5.The Inspector of Police,
Thiruvallur Taluk Police Station,
Thiruvallur District.
- 6.The Public Prosecutor,
High Court, Madras.

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