



WEB COPY



HCP.No.2465 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2465 of 2024

Sanjay

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Additional Chief Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai – 600 007.

3.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai.

4.The superintendent of Prison,
Central Prison – II,
Puzhal, Chennai – 600 066.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order in Memo No.611/BCDFGISSSV/2024 dated 30.05.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set



HCP.No.2465 of 2024

WEB COPY
aside the same and direct the respondent to Produce the petitioner Thiru.Sanjay S/o. Daniel Johnson, aged about 24 years the detainee now, confined in Central Prison, Puzhal, Chennai before this Honble Court and set the petitioner Thiru. Sanjay, S/o. Daniel Johnson, aged about 24 years the detainee herein at Liberty.

For Petitioner : Mr.R.Muthukumar

For Respondents : Mr.R.Muniyapparaj
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 Memo No.611/BCDFGISSSV/2024 dated 30.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.Admittedly, the known language to the detainee in the present case is 'Tamil'. The Government order at Page No.31, 32 (Volume – I) was issued without translating the same in Tamil language. In other words, the Government Order furnished to the detainee is in unknown language to the detainee, which would vitiate the entire proceedings.



HCP.No.2465 of 2024

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**'¹. 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

11999 2 SCC 413



WEB COPY



HCP.No.2465 of 2024

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. Accordingly, the detention order passed by the second respondent in Memo No.611/BCDFGISSSV/2024 dated 30.05.2024, is hereby set



HCP.No.2465 of 2024

asid and the Habeas Corpus Petition is allowed. The detenu viz., Sanjay S/o. Daniel Johnson, aged about 24 years, now confined in Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

04.11.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

gd



WEB COPY



HCP.No.2465 of 2024

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

gd

To

- 1.The Additional Chief Secretary,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai – 600 007.
- 3.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai.
- 4.The superintendent of Prison,
Central Prison – II,
Puzhal, Chennai – 600 066.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.

H.C.P.No.2465 of 2024

04.11.2024