



WEB COPY



H.C.P.No.2468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2468 of 2024

D.Rasheed .. Petitioner

v.

1. The State of Tamil Nadu
represented by its Additional Chief Secretary
to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009
2. The Commissioner of Police
Greater Chennai Police
Vepery, Chennai 600 007
3. The Inspector of Police (Law and Order)
P-2 Otteri Police Station, Chennai
4. The Superintendent
Central Prison, Puzhal, Chennai .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records of the detention made in Memo No.913/B.C.D.F.G.I.S.S.V./2024 dated



H.C.P.No.2468 of 2024

02.09.2024 passed by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai-7, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set the detenu Thiru Mohammed Khaleel, Son of Rasheed, aged 27 years, now confined in Central Prison II, Puzhal, Chennai and set him at liberty.

For Petitioner :: Mr.R.Balakrishnan

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the father of the detenu, viz., Mohammed Khaleel, S/o Rasheed, aged 27 years, now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in No.913/BCDFGISSSV/2024 dated 02.09.2024.

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

3. The learned counsel for petitioner would establish the improper



H.C.P.No.2468 of 2024

translation of the detention order in the language known to the detenu causing prejudice to submit an effective representation, which is a mandate under the statute.

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 required to be detained in any other case. The appeal is accordingly allowed.”*



H.C.P.No.2468 of 2024

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. Accordingly, the detention order passed by the second respondent in No.913/BCDFGISSSV/2024 dated 02.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Mohammed Khaleel, S/o Rasheed, aged 27 years, now confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

25.10.2024

SS

To

1. The Additional Chief Secretary
to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009



H.C.P.No.2468 of 2024

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

3. The Inspector of Police (Law and Order)
P-2 Otteri Police Station, Chennai

4. The Superintendent
Central Prison, Puzhal, Chennai

5. The Public Prosecutor
High Court, Madras



WEB COPY



H.C.P.No.2468 of 2024

S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

H.C.P.No.2468 of 2024

25.10.2024