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HCP.No.2631 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2631 of 2024

Jothi

...Petitioner /husband of the detenu

Vs

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The District Collector & District Magistrate,
Tirupathur District, Tirupathur- 635 601
3. The Superintendent of Police,
Tirupathur District,
Tirupathur - 1.
4. The Superintendent of prison,
Special Prison for Women, Vellore - 2.
5. The Inspector of Police,
Ambalur Police Station,
Tirupathur District

.... Respondents



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PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, in connection with the order of detention passed by the 2nd respondent dated 30.09.2024 in No.C3/D.O.No.54/2024 against the petitioner, Wife Kavitha, female, aged 40 years W/o. Jothi, who is confined at Special Prison for Women, Vellore and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr. D. Balaji
For Respondents : Mr.R. Muniyapparaj
Additional Public Prosecutor

ORDER

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

The order of detention passed by the Commissioner of Police, Coimbatore City, in No.C3/D.O.No.54/2024 dated 30.09.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. The learned counsel for the petitioner would submit that the arrest intimation order relied on for the purpose of issuing the impugned detention order furnished to the detenu has not been translated. Non furnishing of translated



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version of the intimation order caused prejudice to the interest of the detenue for submitting effective representation, which is a mandate under the statute.

3.The issue regarding serving of translated version of the documents in the preventive detention order has been dealt with by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Powanammal Vs. The State of Tamil Nadu and others reported in 1999 2 SCC 413***. The Apex Court held that non supply of the copy of the documents relied on in the grounds of detention has been held to be fatal to continued detention, the detenue need not show that any prejudice is caused to him. This is because 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. The Court further reiterated 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 detenue, should the document be in a different language. The Apex Court had not made any distinction between non serving of a document and the translated copy of the document in the known language of the detenue.

4.In view of the said judgment of the Apex Court, the present Habeas



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Corpus Petition has to be considered. Consequently, the impugned order of detention passed by the second respondent in no. C3/D.O.No.54/2024 dated 30.09.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Kavitha, female, aged 40 years, W/o. Jothi, confined at Special Prison for Women, Vellore, is directed to be set at liberty forthwith, unless she is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

11.11.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

mrp

To

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3. The Superintendent of Police,
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Tirupathur - 1.
4. The Superintendent of prison,



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Special Prison for Women, Vellore - 2.

5. The Inspector of Police,
Ambalur Police Station,
Tirupathur District

6. The Public Prosecutor,
High Court, Madras.



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