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H.C.P.No.2804 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2804 of 2024

Rathinam
W/o Pachappan .. Petitioner

v.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying



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for issuance of a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the second respondent dated 24.09.2024 in C3/D.O.No.52/2024 against the petitioner's son Prabu, Male, aged 29 years, S/o Pachappan, who is confined at Central Prison, 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 was made by S.M.SUBRAMANIAM,J.)

The order of detention passed by the second respondent in proceedings C3/D.O.No.52/2024 dated 24.09.2024 is sought to be quashed in the present habeas corpus petition.

2. The learned counsel for the petitioner would submit that the translation copy of the accident register has not been furnished to the detenu. The detenu has no knowledge in reading English and non translation of the accident register caused prejudice to the detenu from submitting an effective representation, which is a valuable right conferred under the provisions of Act 14 of 1982.



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**' 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.”*

4. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid fact, this Court is of the view that the detention order is liable to be quashed.

5. Hence, the detention order passed by the second respondent in



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proceedings C3/D.O.No.52/2024 dated 24.09.2024 is quashed and the habeas corpus petition is allowed. The detenu viz., Prabu, aged 29 years, S/o Pachappan, who is confined at Central Prison, Vellore 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.)

(M.J.R.,J.)

Neutral citation : yes/no

27.11.2024

ss

To

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6. The Public Prosecutor
High Court, Madras

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S.M.SUBRAMANIAM,J.

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