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HCP.No.2878 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

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

H.C.P.No.2878 of 2024

Vijay

... Petitioner

***Vs.***

1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Chennai - 600 009.

2.The District Collector & District Magistrate  
Tirupathur District, Tirupathur – 635 601.

3. The Superintendent of Police,  
Tirupathur District, Tirupathur -1.

4. Superintendent of Prison  
Central Prison, Vellore -2.

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

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a



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Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the 2<sup>nd</sup> respondent dated 24.09.2024 C3/D.O.No.51/2024 against the petitioner brother Nishanth Male aged 27 years s/o.Prabu who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detainee before this 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 Commissioner of Police, Greater Chennai in Order C3/D.O.No.51/2024 dated 24.09.2024 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 remand order and the remand extension order enclosed along with the booklet has not been translated in the language known to the accused which caused prejudice to the detainee to submit his representation in an effective manner,



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which is a valuable right conferred under Act 14/1982.

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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**'. 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-*



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*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 facts, this Court is of the view that the detention order is liable to



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be quashed.

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5. Hence, for the aforesaid reason, the detention order passed by the second respondent in Order No.C3/D.O.No.51/2024 dated 24.09.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Nishanth son of Prabu aged about 27 years, who is detained at Central Prison, Vellore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

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

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To

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

5. The Public Prosecutor,  
Madras High Court.



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