



DATED : 11.12.2024

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

H.C.P.No.2890 of 2024

... RESPONDENTS

<https://www.mhc.tn.gov.in/judis>



HCP.No.2890 of 2024

respondent to produce the detune Kannan son of Sivakumar aged about 38 years who is detained at central prison Tiruchirappalli before this honble court and set him at liberty.

For Petitioner : Mr. G.Nirmal Krishnan
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 District Collector & District Magistrate, Tiruvarur District, Tiruvarur, in C.O.C.No.26/2024 dated 19.09.2024, is sought to be quashed in the present Habeas Corpus Petition.

2. Admittedly, the known language to the detenu in the present case is 'Tamil'. The Government Order conferring the power of the detaining authority to issue detention order was issued without translating the same in Tamil language. In other words, the Government Order furnished to the detenu is in unknown language to the detenu, which would vitiate the entire proceedings.



HCP.No.2890 of 2024

WEB COPY

3.The non supply of translated version of the Government Order in Tamil caused prejudice to the detenu for submitting effective representation, which is a valuable right provided to the detenu under the Act.

4.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 detenu 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 detenu, should the document be in a different language. The Apex



HCP.No.2890 of 2024

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 detenu.

5.In view of the said judgment of the Apex Court, the present Habeas Corpus Petition has to be considered. Consequently, the impugned order of detention passed by the second respondent in C.O.C.No.26/2024 dated 19.09.2024, is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Kannan son of Sivakumar aged about 38 years, who is detained at Central Prison, Tiruchirappalli, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index	:	Yes/No	[S.M.S., J.]	[M.J.R., J.]
Speaking Order	:	Yes/No	11.12.2024	
Neutral Citation	:	Yes/No		

mrp

To

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

2 District Collector And District



HCP.No.2890 of 2024

Magistrate, Tiruvarur District, Tiruvarur.

- 3 The Superintendent Of Police,
Tiruvarur District.
- 4 The Superintendent
Central Prison, Tiruchirappalli.
- 5 The Inspector Of Police,
Tiruvarur Town Police Station,
Tiruvarur District.
- 6 The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP.No.2890 of 2024

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

mrp

H.C.P.No.2890 of 2024

11.12.2024