



WEB COPY



HCP.No.2436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2436 of 2023

Priyadharshini

... Petitioner/wife of the detenue

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-09.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai-66.

4.The Inspector of Police (L&O),
N2 Kasimedu Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 21.11.2023 in Memo No.609/BCDFGISSSV/2023 against the petitioner's husband,



HCP.No.2436 of 2023

Kamal Raj @ Kamal, male, aged 23 years, S/o.Manickam, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the wife of the detenu namely Kamal Raj @ Kamal, aged 23 years, S/o.Manickam, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 21.11.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



HCP.No.2436 of 2023

WEB COPY

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

3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that though the Detaining Authority has provided the Tamil version of the similar case bail order, the original order has not been furnished to the petitioner, as seen from the Booklet. It is in this circumstances, the learned counsel stated that serious prejudice has been caused to the petitioner for making effective representation.

4. The above issue is already covered by the Hon'ble Supreme Court in the case of '*Powanammal Vs. State of Tamil Nadu*' reported in '*(1999) 2 SCC 413*', wherein, the Hon'ble Supreme Court has held 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. In the said judgment, the Hon'ble Supreme Court has further held as follows :

“6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of



HCP.No.2436 of 2023

WEB COPY

remand passed in English, a language not known to the detenu, would vitiate her further detention.....

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 detenu be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed.”

5. On a perusal of Volume-II of the Booklet, in particular, Page No.309, which is the Tamil version of the similar case bail order in Crl.M.P.No.21204 of 2023 and the original order has not been furnished to the detenu for making effective representation. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish original copy of the bail order also vitiates the Detention Order.

6. In view of the ratio laid down by the Hon'ble Supreme Court and



HCP.No.2436 of 2023

WEB COPY

in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 21.11.2023 in Memo No.609/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Kamal Raj @ Kamal, aged 23 years, S/o.Manickam, confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]

29.04.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu



WEB COPY



HCP.No.2436 of 2023

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

Anu

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-09.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai-66.

4.The Inspector of Police (L&O),
N2 Kasimedu Police Station,
Chennai.

5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai

6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2436 of 2023

29.04.2024