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HCP.No.2466 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

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

H.C.P.No.2466 of 2023

Krishnaveni

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District, Cuddalore.
- 3.The Superintendent of Police,
Cuddalore District, Cuddalore.
- 4.The Inspector of Police,
Neyveli Township Police Station,
Cuddalore District.
- 5.The Superintendent,
Central Prison, Cuddalore.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the entire records, relating to



HCP.No.2466 of 2023

petitioner's friend detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 26.10.2023 on the file of the second respondent herein made in proceedings C3/D.O./69/2023 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's friend namely Sanjith, aged about 22 years, S/o. Gopalakrishnan @ Murali, before this Court and set him at liberty, now petitioner's friend detained at Central Prison, Cuddalore.

For Petitioner : Mr.C.C.Chelliappan

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 friend of the detenu namely Sanjith, aged about 22 years, S/o. Gopalakrishnan @ Murali, has come forward with this petition challenging the detention order passed by the second respondent dated 26.10.2023 slapped on his friend, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



HCP.No.2466 of 2023

WEB COPY

Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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 pointed out that the copy of the remand order and the remand extension order has not been furnished to the detenu. It is in this circumstances, the learned counsel for the petitioner stated that serious prejudice has been caused to the petitioner for making effective representation.

4. On a perusal of the Booklet, it is seen that the copy of the remand order, as well as the remand extension order is not available in the booklet as the same has not been furnished to the detenu. Since a specific stand has been taken that serious prejudice is caused to the petitioner, this Court finds that the failure to furnish a copy of the remand order and remand extension order also vitiates the Detention Order.



HCP.No.2466 of 2023

WEB COPY

5. 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



WEB COPY



HCP.No.2466 of 2023

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.”*

6. 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 be quashed.



HCP.No.2466 of 2023

WEB COPY

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 26.10.2023 in C3/D.O./69/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sanjith, aged about 22 years, S/o. Gopalakrishnan @ Murali, 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]

04.03.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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HCP.No.2466 of 2023

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 - 6.The Public Prosecutor,
High Court, Madras.



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