



HCP(MD)No.490 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and**

THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.490 of 2025

Shanmugapriya

... Petitioner

VS.

1.The State of Tamil Nadu
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

2. The District Collector and District Magistrate
Tenkasi,
Tenkasi District.

3.The Superintendent,
Central Prison,
Palayamkottai,
Thirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in pursuant to the proceedings of the 2nd respondent in Detention Order in M.H.S.Confdl.No.79 of 2024, dated 01.10.2024 quash the same and consequently, direct the respondents to produce, petitioner's husband viz., Balamurugan, S/o.



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Muthupandian aged 32 years, who is now detained in Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.M. Prabu

For Respondents : Mr.S. Ravi
Additional Public Prosecutor

ORDER

[Order of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

The petitioner is the wife of detenu viz., Balamurugan, S/o. Muthupandian aged 32 years. The detenu has been detained by the second respondent by his Detention Order M.H.S.Confdl.No.79 of 2024, dated 01.10.2024 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner would submit that in the English version of remand extension order it has been stated that



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remand of the accused has been extended till 04.10.2024, whereas, in the Tamil translation at page No.149, Part I of the Booklet it has been stated that the remand had been extended till 04.11.2024 and thereby, the detenu is deprived of his valuable right to make an effective representation.

4. On a perusal of the Booklet, it is seen that Page No.149, Part I of the Booklet, furnished to the detenu, suffers from supply of documents with flawed translation. This furnishing of improper translation of the vital document would deprive the detenu of making effective representation to the authorities against the order of detention. It is in the said circumstances, this Court finds that the impugned detorder passed by the Detaining Authority is vitiated.

5. In this context, it is useful to refer to the Judgment of the Honourable Supreme Court in the case of ***Powanammal vs. State of Tamil Nadu***, reported in ***(1999) 2 SCC 413***, wherein the Apex Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenu should be afforded an opportunity of making a 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. The relevant portion of the said decision is extracted hereunder:

"6. The short question that falls for our



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consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenu, would vitiate her further detention.

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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



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language.

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16. For the above reasons, in our view, the nonsupply 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. We find that the above cited ***Powanammal***'s case applies in all force to the case on hand as we find that improper translation of remand extension copy furnished to the detenu at page No.149 Part I of the Booklet, has impaired his constitutional right to make an effective representation against the impugned preventive detention order. To be noted, this constitutional right is ingrained in the form of a safeguard in Clause (5) of Article 22 of the Constitution of India. We, therefore, have no hesitation in quashing the impugned detention order.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.79 of 2024, dated 01.10.2024, passed by the second respondent is set aside. The detenu, viz., Balamurugan, S/o.



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Muthupandian aged 32 years, is directed to be released forthwith unless his

detention is required in connection with any other case.

[A.D.J.C., J.]

[R.P., J.]

01.07.2025

Index : Yes / No

Neutral Citation : Yes / No

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To:

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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2. The District Collector and District Magistrate
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Tenkasi District.

3. The Superintendent,
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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AND
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ORDER MADE IN
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