



**H.C.P(MD)No.672 of 2024**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.10.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN  
and  
THE HON'BLE Ms.JUSTICE R.POORNIMA**

**H.C.P.(MD) No.672 of 2024**

Boopalan @ Boopalakrishnan

... Petitioner

**Vs**

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai – 600 009.

2. The District Magistrate And District Collector,  
Office of the District Magistrate and District Collector,  
Dindigul District.  
Dindigul.

3. The Superintendent of Prison,  
Madurai Central Prison,  
Madurai District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the respondent no.2 in detention order no.32/2024 dated 15.04.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Boopalan @



**H.C.P(MD)No.672 of 2024**

Boopalakrishnan, S/o.Sethupathi, aged about 34 years, now confining at Madurai Central Prison before this Court and set him at liberty.

For Petitioner : Mr. R.Alagumani

For Respondents : Mr.S.Ravi

Additional Public Prosecutor.

### **ORDER**

The petitioner is the detenu viz., Boopalakrishnan, S/o.Sethupathi, aged about 34 years. The detenu has been detained by the second respondent by his order in Detention Order in No.32/2024 dated 15.04.2024 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. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to



**H.C.P(MD)No.672 of 2024**

be quashed on the ground that that the bail of the detenu was dismissed by the learned Principal District Judge, Dindigul in CrI.M.PNo.1103 of 2024, vide order, dated 15.04.2024. However, in the booklet, the seal and signature of the Public Prosecutor, District Sessions Court, Dindigul is found to be dated 17.04.2024. This would deprive the detenu of making effective representation to the authorities against the order of detention.

4. 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:

*"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.*



**H.C.P(MD)No.672 of 2024**

*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 language.*

...

...

*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*



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**H.C.P(MD)No.672 of 2024**

*forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."*

5. We find that the above cited **Powanammal's** case applies in all force to the case on hand. The date of detention is 15.04.2024. The bail of the detenu was dismissed by the learned Principal District Judge, Dindigul in CrI.M.PNo.1103 of 2024, vide order, dated 15.04.2024. However, a copy had been enclosed, which includes the seal and signature of the Public Prosecutor, District Sessions Court, Dindigul, dated 17.04.2024. It is not known how particular page has been considered by the District Collector for passing the detention order, dated 15.04.2024. It clearly shows non-application of mind. To be noted, the 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order in No.32/2024 dated 15.04.2024, passed by the second respondent is set aside. The detenu,



**H.C.P(MD)No.672 of 2024**

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viz., Boopalakrishnan, S/o.Sethupathi, aged about 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

**(C.V.K., J.) (R.P., J.)**  
**15.10.2024**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
PNM

To

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai – 600 009.

2. The District Magistrate And District Collector,  
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Dindigul District.  
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4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**H.C.P(MD)No.672 of 2024**

**C.V.KARTHIKEYAN, J.**  
**and**  
**R.POORNIMA, J.**

PNM

**ORDER MADE IN**  
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**15.10.2024**