



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1207 of 2024

S.Muthammal

... Petitioner / mother of the detenu

Vs.

1. The Principal Secretary to Government,
Government of Tamil Nadu Home,
Prohibition and Excise IX,
Secretariat, George Fort,
Chennai – 600 009.
 2. The District Collector and District Magistrate,
Tenkasi District,
Tenkasi.
 3. The Superintendent of Central Prison,
Madurai Central Prison,
Madurai.
- ... Respondents

Prayer: Habeas Corpus petition is filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, calling for the records on the file of the second respondent in MHS.Confdl No.10/2024 dated 09.02.2024 and set aside the order of detention passed therein; direct the respondents to produce the detenu by name Apranantham @ Karthick aged 28 years, S/o.Sudalaimuthu(the detenu) before this Court, now detained at Central Prison, Madurai and set aside the order of detention passed therein and set him at liberty forthwith.



For Petitioner : Mr.J.William Christopher
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The mother of the detenu is the petitioner herein. She questions the detention order dated 09.02.2024 passed by the second respondent preventively detaining her son as Drug Offender.

3. The learned counsel appearing for the petitioner points out that the remand order dated 29.12.2023 is defective. The defect in the remand order has been carried over to the translation also.

4. Out attention is drawn to the order dated 25.10.2024 made in H.C.P.(MD)No.1154 of 2024. Vide order dated 25.10.2024 the said HCP was allowed in the following terms:-

“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



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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. 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



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a different 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 detenu 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 the wrong translation of the remand order was furnished to the detenu. This non furnishing of remand order in the translated version to the detenu, 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.6 of 2024 dated 18.01.2024 , passed by the second respondent is set aside. The detenu, viz., Sathya, son of Ukkiramasingam aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any



other case.”

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5. We are informed that the detenu in the said case happens to be the co-detenu in the present case. Therefore, we are inclined to adopt the very same approach in this case also.

6. In the result, this Habeas Corpus petition is allowed and the detention order dated 09.02.2024 passed by the second respondent is set aside. The detenu namely, Apranantham @ Karthick, S/o.Sudalaimuthu, aged 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)
5th November 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU

Note : Issue order copy on 06.11.2024.



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G.R.SWAMINATHAN, J.

AND

R. POORNIMA, J.

PMU

To:

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