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HCP No. 44 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2025

CORAM

**THE HONOURABLE MR JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

HCP No. 44 of 2025

Mariya Selvam
W/o. Thomas, 36, Ottavadai Street,
Puzhal, Chennai 600 066

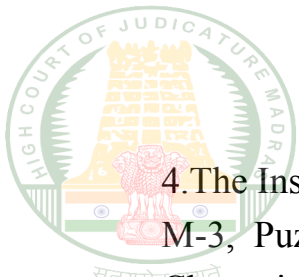
Petitioner(s)

Vs

1. The State Of Tamil Nadu, Rep By Its
Principal Secretary
Home Prohibition And Excise
Department, Secretariat
Complex, Chennai 600 009

2. The Commissioner Of Police
Office Of Commissioner Of Police,
Chennai 600 007

3. The Superintendent Of Prison,
Central Prison, Puzhal,
Chennai 600 066



4.The Inspector Of Police
M-3, Puzhal Police Station,
Chennai 600 066

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Respondent(s)

PRAYER

To issue a writ of Habeas Corpus or any other writ or a direction calling for the records relating to the detention order in No.1187/BCDFGISSSV/2024 dated 02.12.2024 passed by the 2nd respondent under the Tamil Nadu act 14 of 1982 and quash the same and direct the respondent to produce the detenu Daniel alias Sebastian Daniel aged 22years S/O. Thomas who is presently confined in the Central Prison Puzhal Chennai before this Hon'ble court and set him at liberty

For Petitioner(s): M/s.Santhosh

For Respondent(s): Mr.R.Muniyaparaj
Additional Public Prosecutor
Assisted by Mr.M.Sylvester John

ORDER

M.S.RAMESH, J.

AND

N.SENTHILKUMAR, J.

The petitioner herein, who is the mother of the detenu viz., Daniel, @ Sebastian Daniel S/o.Thomas, aged about 22 years, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 02.12.2024 slapped on her son, 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].

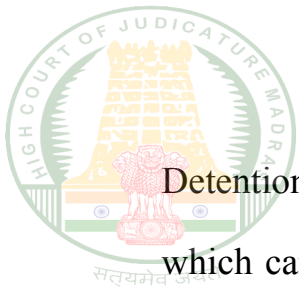
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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the ground that the Memo of Evidence was not fully translated to Tamil version. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On a perusal of the Booklet, it is seen that Page Nos.107 and 108 in Volume-II of the booklet furnished to the detenu, was not fully translated to Tamil version. Therefore, the detenue is deprived from making effective representation and that the Detention Order passed by the Detaining Authority is vitiated.

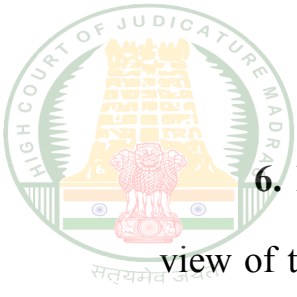
5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in '*Powanammal Vs. State of Tamil Nadu*' reported in '*(1999) 2 SCC 413*'. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should 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 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.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 02.12.2024 in No.1187/BCDFGISSSV/2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Daniel, @ Sebastian Daniel S/o.Thomas, aged about 22 years, confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

(M.S.RAMESH J.) (N.SENTHILKUMAR J.)

01-04-2025

ASI

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



To
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1. The Principal Secretary
Home Prohibition And Excise
Department, Secretariat
Complex, Chennai 600 009
2. The Commissioner Of Police
Office Of Commissioner Of Police,
Chennai 600 007
3. The Superintendent Of Prison,
Central Prison, Puzhal,
Chennai 600 066
4. The Inspector Of Police
M-3, Puzhal Police Station,
Chennai 600 066.
5. The Public Prosecutor,
High Court of Madras,
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