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HCP No. 232 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

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

HCP No. 232 of 2025

J.Maheswari
W/o. P.Jayaraj, Thaneerthadam Street,
Vandagappadi Village, Kalvarayanmalai
Taluk, Kallakurichi District.

Petitioner(s)

Vs

1. The State Of Tamil Nadu Rep.By Its
Secretary To Government, Prohibition
And Excise Department, Fort
St.George, Chennai - 9.

2.The District Magistrate,
District Collector, Kallakurichi
District.

3.The Superintendent Of Police,
Kallakurichi, Kallakurichi District.

4.The Superintendent Of Police,
Central Prison, Cuddalore.



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5. The Inspector Of Police
Kachirayapalayam Police Circle,
Kallakurichi District.

Respondent(s)

PRAYER

To Writ of Habeas Corpus to calling for the records relating to the proceedings of the 2nd Respondent herein in No.D.No.C2/73/2024 dated 31.12.2024 and quash the same and produce the detenue Jeyaraj son of Pichan aged about 38 yrs, TPDA No.4390 dated 01.01.2025 now detained in Central Prison, Cuddalore before this Honble Court and set him at Liberty.

For Petitioner(s): Mr. P.Rajavel

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

ORDER

M.S.RAMESH, J.

AND

N.SENTHILKUMAR, J.

The petitioner herein, who is the wife of the detenu viz., Jeyaraj S/o.Pichan, aged about 38 years, confined at Central Prison, Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent dated 31.12.2024 slapped on her husband, branding him as "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



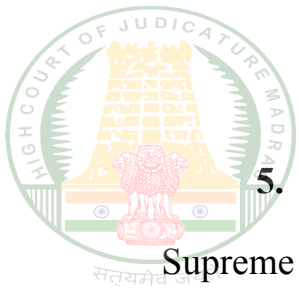
Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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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 the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument that the delegation of power on the detaining authority has not been translated in Tamil version. Hence, it is submitted that the detenu was deprived of making effective representation.

4. On perusal of the documents available on record, particularly in Page Nos.1 and 2 of Volume-II of the booklet, this Court finds that the Government had conferred powers on the detaining authority under Sub Section (2) of Section 3 of the said Act vide G.O.(D) No.274, Home, Prohibition and Excise (XVI) Department, dated 14.10.2024, and the same has not been translated in Tamil version. Therefore, the detenu 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.



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HCP No. 232 of 2025



..... **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.”*

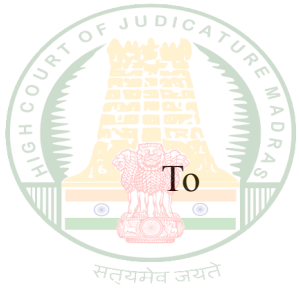
6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 31.12.2024 in D.No.C2/73/2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jeyaraj, S/o.Pichan, aged about 38 years, confined at Central Prison, Cuddalore 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.)

07-04-2025

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To

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1. The Secretary To Government,
Prohibition And Excise Department,
Fort St.George, Chennai - 9.

2.The District Magistrate,
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District.

3.The Superintendent Of Police,
Kallakurichi, Kallakurichi District.

4.The Superintendent Of Police,
Central Prison, Cuddalore.

5.The Inspector Of Police
Kachirayapalayam Police Circle,
Kallakurichi District.

6. The Public Prosecutor,
High Court of Madras,
Chennai - 104.



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