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HCP.No.213 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.213 of 2025

NAGALAKSHMI

Petitioner(s) /sister of the detenue

Vs

1. The Principal Secretary To the Government,
Home Prohibition And Excise Department,
Secretariat, Chennai - 600 009.

2.The District Magistrate And
District Collector, Tiruppur District.

3.THE SUPERINTENDENT OF POLICE,
Tiruppur District.

4.The Superintendent Of Prison,
Central Prison, Coimbatore-18

5.The Inspector Of Police,
Avinashi Police Station, Tiruppur District.

...Respondent(s)



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 28.12.2024 in C.NO.104/GOONDA/2024 against the petitioner's brother Gopalakrishnan, male aged 34 years, S/o.Kanthaiyan, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondent to produce my Brother before this Court and set him Liberty.

For Petitioner : Mr.S.Selvakumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
and
V. LAKSHMINARAYANAN, J.

The petitioner herein, who is the sister of the detenu, Gopalakrishnan, male aged 34 years, S/o.Kanthaiyan, confined at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the second respondent dated 28.12.2024 issued against her brother, 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



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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 and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that the order of Detention passed by the Detaining Authority is vitiated for material irregularities, as the copy of the seizure mahazar, has not been properly translated. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.

4. On a perusal of the Booklet, particularly page No.137, this Court finds that a copy of the seizure mahazar is available in both Tamil and English. However, certain portions of the English version have not been translated into the vernacular language. Therefore, this Court is of the view that the improper translation of the copy of the vital document relied upon by the Detaining Authority to arrive at a subjective satisfaction, would



deprive the detenu of his valuable right to make effective representation. It is in the said circumstances, this Court finds 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



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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.”*



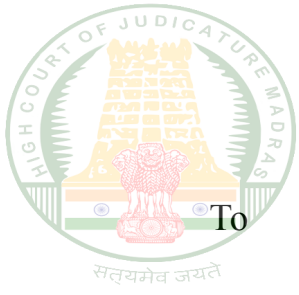
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6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 28.12.2024 in C.NO.104/GOONDA/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Gopalakrishnan, male aged 34 years, S/o.Kanthaiyan, confined at Central Prison, Coimbatore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J] [V.L.N., J]
10.06.2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No
Anu



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5. The Inspector Of Police,
Avinashi Police Station, Tiruppur District.
6. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai
7. The Public Prosecutor,
High Court, Madras.



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