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H.C.P.No.317 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.317 of 2025

P.Saraswathi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The District Magistrate and District Collector,
Namakkal District, Namakkal.

3.The Superintendent of Police,
Namakkal District, Namakkal.

4.The Superintendent of Prison,
Central Prison, Salem
Salem District.

5.The Inspector of Police,
Velagoundampatty Police Station,
Namakkal District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed in C.M.P.No.4/GOONDA/2025/(M1) dated 29.01.2025 by the 2nd respondent and set aside the same and direct the respondents to produce the petitioner's husband namely Surya, aged about 27 years, S/o.Shanmugam, before this Court, now confined in Central Prison, Salem and set him at liberty.

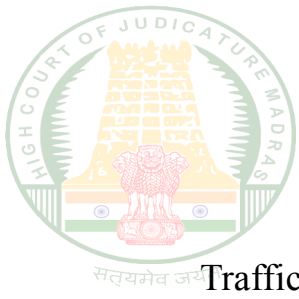
For Petitioner : Mr.C.Deepakkumar

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

(Order of the Court was made by *M.S. RAMESH, J.*)

The petitioner herein, who is the wife of the detenu namely Surya, aged about 27 years, S/o.Shanmugam, has come forward with this petition challenging the detention order passed by the second respondent dated 29.01.2025 issued against her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral



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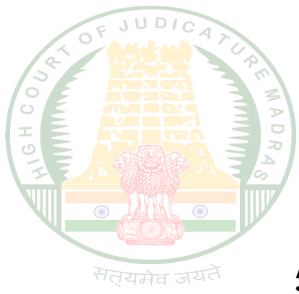
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Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and
Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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 detenu was not furnished with translated copy of the
order of the Judicial Magistrate. Hence, it is submitted that the detenu was
deprived of making effective representation.

4. On a perusal of the Booklet particularly in page No.133, it is seen
that the order of the Judicial Magistrate is in English and its translated
copy in vernacular language has not been furnished to the detenu. This
non-furnishing of the copy of the vital document would deprive the detenu
of making effective representation to the authorities against the order of
detention.



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5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in the case of '**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.



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7. Accordingly, the detention order passed by the second respondent on 29.01.2025 in C.M.P.No.4/GOONDA/2025/(M1), is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Surya, aged about 27 years, S/o.Shanmugam, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[V.L.N, J.]

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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- To
- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
 - 2.The District Magistrate and District Collector,
Namakkal District, Namakkal.
 - 3.The Superintendent of Police,
Namakkal District, Namakkal.
 - 4.The Superintendent of Prison,
Central Prison, Salem
Salem District.
 - 5.The Inspector of Police,
Velagoundampatty Police Station,
Namakkal District.
 - 6.The Public Prosecutor,
High Court, Madras.
 - 7.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.



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and
V. LAKSHMINARAYANAN, J.

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