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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.483 of 2025

MUTHAZHAGI

... Petitioner/daughter in law of the detenue

Vs.

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

2.District Collector And District Magistrate,
Nagapattinam District.

3.The Superintendent Of Police,
Nagapattinam District.

4.The Superintendent,
Special Prison For Women, Tiruchirappalli.

5.The Inspector Of Police,
All Women Police Station Nagapattinam,
(i/c) Nagapattinam Town Police Station,
Nagapattinam 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 relating to the detention order passed by the second respondent pertaining to the order made in C.O.C.No.02/2025 dated 06.02.2025 in detain the detenue under 2(b) of Tamil Nadu Act 14 of 1982, as a BOOT-LEGGER and quash the same and direct the respondent to produce the detenue Gandhi, wife of Ramesh, aged about 54 years, detained at Special prison for women, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the daugther-in-law of the detenu namely Gandhi, wife of Ramesh, aged about 54 years, detained at Special prison for women, Tiruchirappalli has come forward with this petition challenging the detention order passed by the second respondent dated 06.02.2025 slapped on her grandmother, branding her as "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,

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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].

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 on the ground that the Government Order in G.O.(D).No.26, Home, Prohibition and Excise (XVI) Department dated 09.01.2025 has not been translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. On perusal of the documents available on record, particularly in Page Nos.90 and 91 of the booklet in Volume-II, a copy of the Government Order in G.O.(D).No.26, Home, Prohibition and Excise (XVI) Department dated 09.01.2025 is available and the translated copy in vernacular version

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of the same has not been furnished to the detenue. 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*

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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

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order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 06.02.2025 in C.O.C.No.02/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Gandhi, wife of Ramesh, aged about 54 years, detained at Special prison for women, Tiruchirappalli 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]

13.06.2025

Index: Yes/No
Internet:Yes/No
Neutral Citation: Yes/No

Anu
To

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

2.District Collector And District Magistrate,
Nagapattinam District.

3.The Superintendent Of Police,

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Nagapattinam District.

4.The Superintendent,
Special Prison For Women, Tiruchirappalli.

5.The Inspector Of Police,
All Women Police Station Nagapattinam,
(i/c) Nagapattinam Town Police Station,
Nagapattinam District.

6.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

7.The Public Prosecutor,
High Court, Madras.

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