

H.C.P.No.498 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

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.. Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Erode District, Erode.
- 3.The Superintendent of Police,
Erode District, Erode.
- 4.The Superintendent of Prison,
Central Prison, Coimbatore.
- 5.The Inspector of Police,
PEW – Gobi Police Station,
Erode District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Habeas Corpus, to call for the records in



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connection with the order of detention passed by the second respondent dated 21.02.2025 made in Cr.M.P.No.06/Drug Offender/2025 C1 against the petitioner's brother Siva Prakasam, son of Iyyadurai, aged about 48 years who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Samson
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 brother of detenu viz. Siva Prakasam, aged about 48 years, S/o.Iyyadurai, now confined in Central Prison at Coimbatore, has come forward with this petition challenging the detention order passed by the second respondent dated 21.02.2025, issued on her husband, branding him as "Drug Offender" 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 detenu was not furnished with proper translated copy of Government Order in G.O.(D).No.18, Home, Prohibition and Excise (XVI) Department, dated 09.01.2025. Hence, it is submitted that the detenu was deprived of making effective representation.

4.On a perusal of the Booklet, particularly in page Nos.12 & 13 of Volume - II, it is seen that a copy of the Government Order in G.O.(D).No.18, Home, Prohibition and Excise (XVI) Department, dated 09.01.2025 is partially in Tamil and partially in English and its proper 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



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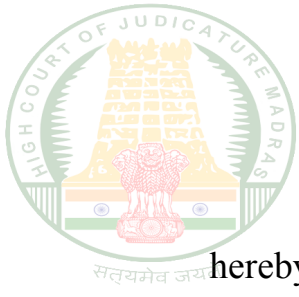
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so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. 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.Accordingly, the detention order passed by the second respondent on 21.02.2025 in Cr.M.P.No.06/Drug Offender/2025 C1, is



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hereby set aside and the Habeas Corpus Petition is allowed. The petitioner's brother / detenu viz., Siva Prakasam, aged about 48 years, S/o.Iyyadurai, confined at Central Prison, Coimbatore, 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)

19.06.2025

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



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- 6.The Public Prosecutor,
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