

WEB COPY



H.C.P.No.1029 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.1029 of 2025

Rishad

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009.

2.Office of the District Magistrate and District Collector,
Coimbatore,
Coimbatore District.

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

4.The Superintendent,
Central Prison, Coimbatore.

5.State rep. by:
The Inspector of Police,
Pollachi Town East Police Station,
Coimbatore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to



H.C.P.No.1029 of 2025

issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the 2nd respondent dated 15.07.2024 in Cr.M.P.No.38/D.O/2024 against the petitioner's brother namely Rashid, Male/30 years, S/o.Basheer, who is confined at Central Prison, Coimbatore and set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

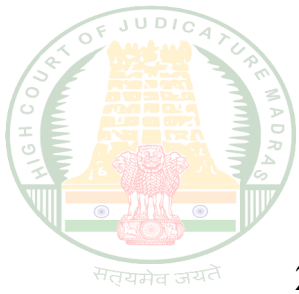
For Petitioner : Mr.A.Saranraj

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 the detenu namely Rashid, aged about 30 years, S/o.Basheer, has come forward with this petition challenging the detention order passed by the second respondent dated 15.07.2024 issued against his brother, 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].



H.C.P.No.1029 of 2025

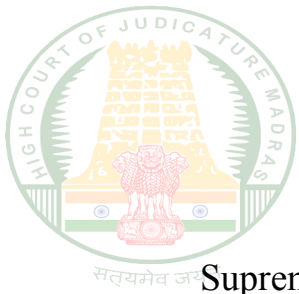
WEB COPY

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.93, Home, Prohibition and Excise (XVI) Department dated 15.04.2024, has not been translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On perusal of the documents available on record, especially Page No.48 of the booklet of Vol.2, it is clear that the Government Order in G.O.(D).No.93, Home, Prohibition and Excise (XVI) Department dated 15.04.2024 is in English and the same has not been translated in vernacular language. 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

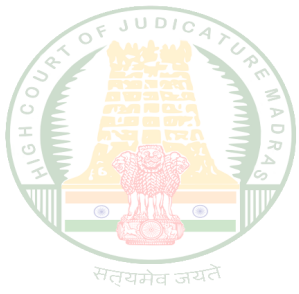


H.C.P.No.1029 of 2025

WEB COPY

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



WEB COPY



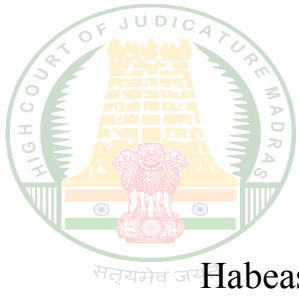
H.C.P.No.1029 of 2025

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 15.07.2024 in Cr.M.P.No.38/D.O/2024, is hereby set aside and the



H.C.P.No.1029 of 2025

WEB COPY

Habeas Corpus Petition is allowed. The detenu viz., Rashid, aged about 30 years, S/o.Basheer, 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.]

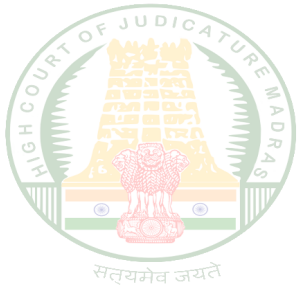
18.06.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

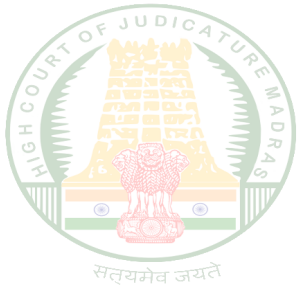
Sni



H.C.P.No.1029 of 2025

WEB COPY

- To
- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai-600 009.
 - 2.Office of the District Magistrate and District Collector,
Coimbatore,
Coimbatore District.
 - 3.The Superintendent of Police,
Coimbatore,
Coimbatore District.
 - 4.The Superintendent,
Central Prison, Coimbatore.
 - 5.The Inspector of Police,
Pollachi Town East Police Station,
Coimbatore District.
 - 6.The Public Prosecutor,
High Court, Madras.
 - 7.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.



WEB COPY



H.C.P.No.1029 of 2025

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

Sni

H.C.P.No.1029 of 2025

18.06.2025