



H.C.P.No.1422 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-09-2025

CORAM:

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

AND

THE HONOURABLE MR. JUSTICE S. SOUNTHAR

H.C.P.No.1422 of 2025

Kubrabagem,
W/o Rafeeq Basha @ Salman

... Petitioner

Vs.

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

2. The District Collector & District Magistrate,
Tirupathur District, Tirupathur.

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

4. The Superintendent of Prison,
Central Prison, Vellore.

5. The Inspector of Police,
Vaniyambadi Town Police Station,
Tirupathur District.

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, to call for records relating to the detention order passed by the 2nd respondent dated 08.05.2025 in C3/D.O.No.15/2025 against the petitioner husband,



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Rafeeq Basha alias Salman, Male, aged 34 years, S/o Karimullah and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

J.Nisha Banu,J.
and
S.Sounthar,J

The petitioner is the wife of the detenu, viz., Rafeeq Basha alias Salman, Male, aged 34 years, S/o Karimullah, has come forward with this petition challenging the detention order passed by the second respondent in C3/D.O.No.15/2025 dated 08.05.2025, 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 offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982] read with the order issued by the Government in G.O.(D).No.135 Home Prohibition and Excise (XVI) Department dated 11.04.2025 under sub section (2) of Section 3 of the said Act, and direct the respondents to produce the detenu before this Court and set him at liberty.



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WEB COPY 2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 that certain documents in the booklet has not been properly translated in vernacular language. He also pointed out that the translated version of post mortem certificate has not been furnished to the detenu. The detenu is conversant only in tamil language. This deprived the detenu from making effective representation. Therefore, he would state that the detention order is liable to be quashed.

4. On perusal of the documents available on record, particularly, in Volume-I Page 47 of the booklet, it is seen that translated version of post mortem certificate has not been furnished. Therefore, the detenu is deprived from making effective representation and that the Detention Order passed by the Detaining Authority is vitiated.



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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 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.



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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.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent



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respondent in C3/D.O.No.15/2025 dated 08.05.2025 is hereby set aside.

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The detenu, viz., Rafeeq Basha alias Salman, Male, aged 34 years, S/o Karimullah, who is now confined in the Central Prison, Vellore, is hereby directed to be set at liberty forthwith unless his presence is required in connection with any other case.

(J.NISHA BANU, J.) (S. SOUNTHAR, J.)

12-09-2025

vsi
To

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector & District Magistrate,
Tirupathur District, Tirupathur.
3. The Superintendent of Police,
Tirupathur District, Tirupathur.
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Central Prison, Vellore.
5. The Inspector of Police,
Vaniyambadi Town Police Station,
Tirupathur District.
6. The Public Prosecutor,
High Court of Madras,
Chennai.



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