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HCP No. 3092 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2025

CORAM

**THE HONOURABLE MR JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

HCP No. 3092 of 2024

SUGANTHI

W/o. Mohan, No. 247, Nasamani Street,
M.G.R. Nagar, Agaramthan,
Mapadu, Chengalpattu District.

Petitioner(s)

Vs

1. State Of Tamil Nadu

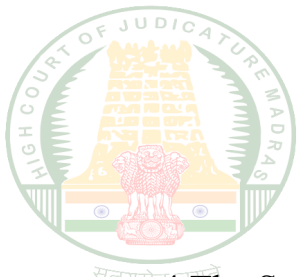
Rep By The Additional Chief Secretary
Home, Prohibition And Excise
Department, Fort St George,
Chennai 600 009

2. The Commissioner Of Police

Avadi City, Type V, QTR No. 5/1,
HVF Estate, Avadi, Chennai 600 054

3. The Inspector Of Police

T-9, Pattabiram Police Station,
Chennai.



4. The Superintendent Of Prsion,
Central Prison -II, Puzhal,
Chennai 600 066.

Respondent(s)

PRAYER

To issue a writ of habeas corpus or any other writ of direction calling for the records relating to the detention order in Memo NO. 195/ BCDFGISSSV/2024 dated 13.11.2024 and set aside the same and direct the respondent to produce the petitioners husband Thriu Mohan alias Sagayaraj S/O. Thanikalas aged about 47 years the detenu, now confined at Central Prison , Puzhal, Chennai before this Hon'ble Court and set the petitioners husband Thiru Mohan @ Sagayaraj, S/O. Thanikalas ages about 47 years the detenu herein at liberty.

For Petitioner(s): Mr. R.Muthukumar

For Respondent(s): Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

M.S.RAMESH, J.

AND

N.SENTHILKUMAR, J.

The petitioner herein, who is the wife of the detenu, namely Mohan @ Sagayaraj S/o.Thanikalas, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the

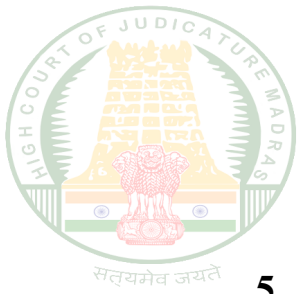


second respondent dated 13.11.2024 issued against her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and 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 grounds are raised in the petition, the learned counsel for the petitioner submitted that the order of Detention passed by the Detaining Authority is vitiated for material irregularities, as the copy of the Arrest Intimation Form has not been properly translated. It is therefore stated that the detenu is deprived of his valuable right to make effective representation.

4. On a perusal of the Booklet in Volume-I, particularly, in page No.75, this Court finds that a copy of the arrest intimation form is available, and the same has not been translated in vernacular version. 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. 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



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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. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 13.11.2024 in Memo No.195/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mohan @ Sagayaraj, S/o.Thanikalas, now confined in Central prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

(M.S.RAMESH J.) (N.SENTHILKUMAR J.)

22-04-2025

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N.SENTHILKUMAR J.

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To

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Avadi City, Type V, QTR No. 5/1,
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5. The Public Prosecutor,
High Court of Madras,
Chennai - 600 104.

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