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HCP.No.3309 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**AND**

**THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

**H.C.P.No.3309 of 2024**

Kamatchi

... Petitioner/Mother of the  
Detenu

***Vs.***

1. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.
2. The Commissioner of Police,  
Greater Chennai Office of the Commissioner of Police,  
Vepery, Chennai - 600 007.
3. The Superintendent of Prison,  
Central Prison, Puzhal, Chennai.
4. The Inspector of Police (Law & Order),  
K-2, Ayanavaram Police Station,  
Chennai District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 18.11.2024 in



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BCDFGISSSV No.1132 of 2024 against the petitioner's son Prakash, S/o. Balan, aged about 24 years, who is confined at Central Prison, Puzhal Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.G.Vasudevan

For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor

### **ORDER**

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The writ of habeas corpus has been filed challenging the detention order passed by the second respondent in proceedings No.1132/BCDFGISSSV/2024 dated 18.11.2024.

2. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

3. The learned Counsel appearing on behalf of the petitioner would submit that the Remand Extension Order dated 15.11.2024 has been improperly translated.



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4. 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*



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*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.”*

5. The ground case facts would reveal that fight between two groups resulted in commission of alleged offence. Therefore, the said ground case may not fall under the definition of breach of public order. The "public disorder" and "law and order" are distinguished by the



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Hon'ble Supreme Court of India in the case of **Ram Manohar Lohia**.

Therefore, this court is of the considered opinion that preventive detention in the present case may not be required. The criminal cases registered can be dealt with by the police Authorities under the law of the land.

6. For the aforesaid reasons, the detention order passed by the second respondent in proceedings No.1132/BCDFGISSSV/2024 dated 18.11.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenu, viz., Prakash, aged 24 years, S/o. Balan confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [M.J.R., J.]  
20.01.2025

Index : Yes/No  
Speaking Order : Yes/No  
Neutral Citation : Yes/No  
veda



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To

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1. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.
2. The Joint Secretary to Government,  
Public (Law and Order) Department,  
Fort St.George, Chennai - 9.
3. The Commissioner of Police,  
Greater Chennai Office of the Commissioner of Police,  
Vepery, Chennai - 600 007.
4. The Superintendent of Prison,  
Central Prison, Puzhal, Chennai.
5. The Inspector of Police (Law & Order),  
K-2, Ayanavaram Police Station,  
Chennai District.
6. The Public Prosecutor,  
Madras High Court,  
Chennai - 104.



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**S.M.SUBRAMANIAM, J.**  
**AND**  
**M.JOTHIRAMAN, J.**

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