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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.190 of 2025

Shanthi ... Petitioner

vs.

1. The State of Tamil Nadu
rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Secretariat, Chennai -600 009.

2. The Commissioner of Police,
Tirunelveli City,
Tirunelveli District.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order passed in No.80/BCDFGISSSV/2024, dated 29.11.2024 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenue or body of the detenue namely the petitioner's son i.e Ayyappan @ Sasi, aged about 21 years, S/o. Selvam, now detained at the

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Central Prison, Palayamkottai, Tirunelveli District before this Court and set him at liberty forthwith.

For Petitioner : Mr.S. Muthu Malai Raja

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

[Order of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

The petitioner is the son of detenu viz., Ayyappan @ Sasi, S/o. Selvam, aged about 21 years. The detenu has been detained by the second respondent by his order in No.80 / BCDFGISSSV / 2024, dated 29.11.2024, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

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 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

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ground that the documents furnished at page Nos.45, 47 and 49 in Volume I of the Booklet some entries have been made in English and the translated version of such entries have not been furnished to the detenu and further in the Accident Register furnished at page No.269 in Volume I of the Booklet some entries have been made on the right side bottom in English and the translated copy of the said entries has not been furnished to the detenu. Hence, it is submitted that the detenu was unable to properly understand the same and thereby deprived of making effective representation.

4. The learned Additional Public Prosecutor fairly submitted that the translated copy of page Nos.45, 47 and 49, Volume I of the Booklet was not furnished to the detenu.

5. On a perusal of the Booklet, it is found that the documents furnished at page Nos.45, 47 and 49 in Volume I of the Booklet some entries have been made in English and the translated copies are not furnished to the detenu and further in the English Accident Register furnished at page No.269 in Volume I of the Booklet some entries have been made on the right side bottom in English and the translated copy of the said document has not been furnished to the detenu. This non furnishing of translated copies of the vital documents

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would deprive the detenu of making effective representation to the authorities against the order of detention.

6. In this context, it is useful to refer to the Judgment of the Honourable Supreme Court in the case of ***Powanammal vs. State of Tamil Nadu, reported in (1999) 2 SCC 413***, wherein the Apex Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenu should be afforded an opportunity of making a 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. The relevant portion of the said decision is extracted hereunder:

> *"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*

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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 nonsupply 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."

7. We find that the above cited *Powanammal*'s case applies in all force to the case on hand as we find that page Nos.45, 47 and 49 in Volume I of the Booklet some entries have been made in English and the translated version has not been furnished to the detenu and further in the English Accident Register furnished at page No.269 in Volume I of the Booklet some entries have

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been made on the right side bottom in English and the translated copy of the said document has not been furnished to the detenu. This furnishing of improper translation in the vernacular language, to the detenu, has impaired his constitutional right to make an effective representation against the impugned preventive detention order. To be noted, this constitutional right is ingrained in the form of a safeguard in Clause (5) of Article 22 of the Constitution of India. We, therefore, have no hesitation in quashing the impugned detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.80/BCDFGISSSV/2024, dated 29.11.2024, passed by the second respondent is set aside. The detenu, viz., Ayyappan @ Sasi, S/o. Selvam, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[A.D.J.C., J.] **[R.P., J.]**
05.08.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:

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2. The Commissioner of Police,
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Tirunelveli District.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

4. The Additional Public Prosecutor,
Madurai Bench of Madars High Court, Madurai.

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A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

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ORDER MADE IN
HCP(MD)No. 190 of 2025

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