



H.C.P.(MD) No.179 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2025

CORAM:

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

H.C.P.(MD) No.179 of 2025

Mariammal

... Petitioner/
Mother of the Detenue

-VS-

1.The State of Tamilnadu Rep By,
The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

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, to call for the entire records connected with the detention



H.C.P.(MD) No.179 of 2025

WEB COPY

order passed in No.84/BCDFGISSSV/2024 dt 11.12.2024 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son (ie) Sudalaimani @ Maruthu, aged about 27 years, S/o.Perumal @ Mandaiyan Perumal, now detained at the Central Prison, Palayamkottai, Tirunelveli District before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Muthumalai Raja
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu Sudalaimani @ Maruthu, aged about 27 years, S/o.Perumal @ Mandaiyan Perumal. The detenu has been detained by the second respondent by his order in No.84/BCDFGISSSV/2024 dt 11.12.2024 holding him to be a "Goonda", as contemplated under 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



H.C.P.(MD) No.179 of 2025

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. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that while making representation, a specific request was made to furnish Tamil version of documents at Page Nos.45, 47 and 49, which are Partially in English. It is also seen that inspite of the request made by the detenu for furnishing translated and eligible documents, the same has not been furnished. Therefore, on that score, the order of detention is liable to be interfered with by this Court. Further, the learned counsel submitted that there is infraction of fundamental rights of the detenu. In view of the same, the detention order suffers from illegality.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents.



H.C.P.(MD) No.179 of 2025

WEB COPY5. We have carefully considered the submission made by the learned counsel for the petitioner. It is seen from the representation that a specific request has been made for Tamil translation of the documents that was relied upon by the detaining authority to come to a conclusion that there is a likelihood of the detenu being granted bail. However, the Tamil translation of the document was not furnished to the detenu and hence, the detenu was not able to make an effective representation and thereby, fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India has been violated.

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:



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"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 document in the language known to and understood by the detenu, should the document be in a different language.

...

...



H.C.P.(MD) No.179 of 2025

WEB COPY

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 the translated copies of the Page Nos.45, 47 and 49, 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.84/BCDFGISSSV/2024 dt 11.12.2024, passed by the second respondent is set aside. The detenu, viz., Sudalaimani @ Maruthu, aged about 27



H.C.P.(MD) No.179 of 2025

WEB COPY

years, S/o.Perumal @ Mandaiyan Perumal, 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.]

12.08.2025

NCC : Yes / No

Index : Yes / No

NS

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

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



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AND
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