



HCP(MD)No.429 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and**

THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.429 of 2025

Sabitha

... Petitioner

VS.

1.The State of Tamil Nadu
rep. by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

2 The District Magistrate and District Collector,
Theni,
Theni District.

3. The Superintendent of Prison,
Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records in pursuant to the proceedings of the 2nd respondent in Detention Order No.58 of 2024, dated 25.09.2024 and to quash the same and consequently, direct the respondents to produce the detenu, namely Rukman, S/o. Subramanian aged 47 years, who is now detained in Central Prison, Madurai before this Court and set him at liberty.



HCP(MD)No.429 of 2025

For Petitioner : Mr.M. Chandrabose

WEB COPY For Respondents : Mr.S. Ravi
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of detenu viz., Rukman, S/o. Subramanian aged 47 years. The detenu has been detained by the second respondent by his order in Detention Order No.58 of 2024, dated 25.09.2024, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 judicial order of initial remand was neither placed before the detaining authority nor furnished to the detenu. Hence, it is submitted that the detenu was deprived of making effective representation.



HCP(MD)No.429 of 2025

WEB COPY

4. On a perusal of the Booklet, it is seen that the order of initial remand was neither placed before the detaining authority nor furnished to the detenu. The non furnishing of initial order of remand would deprive the detenu of making effective representation to the authorities against the order of detention.

5. 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



WEB COPY



HCP(MD)No.429 of 2025

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.

...

...

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 detainee be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

6. We find that the above cited **Powanammal's** case applies in all force to the case on hand as we find that non-furnishing of the initial order of



HCP(MD)No.429 of 2025

remand 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.58 of 2024, dated 25.09.2024, passed by the second respondent is set aside. The detenu, viz., Rukman, S/o. Subramanian, aged about 47 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.]
01.07.2025

Index : Yes / No
Neutral Citation : Yes / No
trp



HCP(MD)No.429 of 2025

To:

WEB COPY

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2 The District Magistrate and District Collector,
Theni,
Theni District.
3. The Superintendent of Prison,
Central Prison, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



HCP(MD)No.429 of 2025

A.D.JAGADISH CHANDIRA, J.

AND

R.POORNIMA, J.

trp

ORDER MADE IN
HCP(MD)No.429 of 2025

DATED : 01.07.2025