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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 1860 of 2025

Periyasamy
S/o. Mookan,
No.60, Subashchandraboss Street,
Erumapatti Post,
Namakkal.

..Petitioner(s)

Vs

1. The State of Tamil Nadu
Reptd. by its secretary to government, (Home),
Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The District Magistrate and the District Collector,
Namakkal
Namakkal District.
3. The Superintendent Police
Namakkal District,
Namakkal.
4. The Superintendent of Prison
Central Prison,
Salem District.
5. The Inspector of Police
PEW-Namakkal Police Station,



Namakkal District.

..Respondent(s)

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Prayer: Habeas Corpus petition filed under Article 226 of Constitution of India for issuance of a writ of habeas corpus to call for the records pertaining to the order of detention passed in his proceedings in C.M.P.No.69/Drug Offender/2025/M1 dated on 05.08.2025 passed by the 2nd respondent and set aside the same and directing the respondents to produce the petitioner's son by name in Thirupathi son of Periyasamy aged about 23 years before this Honourable Court now confined in Central Prison, Salem and set him at liberty and pass such further or other orders which deem fit and proper and thus render justice.

For Petitioner(s): Ms.P. Hasnah for
Mr.C.Deepakkumar

For Respondent(s): Mr. S. Raja Kumar
Additional Public Prosecutor
Assisted By Mr. M. Sylvester John

Order

(Order of the Court was made by Dr.Anita Sumanth J.)

The father of the detenu viz., Thirupathi, S/o.Periyasamy, male, aged 23 years, who has been branded as Drug Offender under Section 2(e) of the Tamil Nadu Preventive Detention Act, 1982 (Act), has filed this habeas corpus petition.

2. We have heard the learned counsel for the petitioner, who points out to various fallacies in the impugned order. However, what appeals to us is the fact that the booklet containing the grounds of detention and annexures that has



been supplied to the detenu contains an arrest card, which has not been translated in the language known to the detenu. Learned Additional Public Prosecutor has no defence to this position.

3. The Hon'ble Supreme Court in the case of *Powanammal Vs. State of Tamil Nadu* ((1999) 2 SCC 413) has settled the position that in order to afford a proper opportunity to the detenu to put forth their defence, the grounds of detention and annexures must be supplied to the detenu in a language with which the detenu is conversant. The relevant observations are as follows:

*“8. The law relating to preventive detention has been crystallized and the principles are well neigh settled. The amplitude of the safeguard embodied in Art. 22(5) extends not merely to oral explanation of the grounds of detention and the material in support thereof in the language understood by the detenue but also to supplying their translation in script or language which is understandable to the detenue. Failure to do so would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making a representation against the order. (See *Hadibandhu Das v. District Magistrate, Cuttack & Anr.*, [1969] 1 SCR 227).*

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



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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."

4. In light of the above, the non-furnishing of the translation of the arrest card in order to enable him to put forth his defence would be contrary to the principles of natural justice and fatal to the impugned order.

5. Hence, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent in CMP.No.69/Drug Offender/2025 (M1) dated 05.08.2025 is set aside.

6. The detenu, viz., Thirupathi, S/o.Periyasamy, aged 23 years, now confined in Central Prison, Salem, is directed to be set at liberty forthwith, unless his presence is required in connection with any other case.

(A.S.M.,J.) (S.M.,J.)

26-03-2026

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Index: Yes/No

Speaking order

Neutral Citation: Yes

Note: Registry is directed to issue a copy of this order today.



To

1. The secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The District Magistrate and the District Collector,
Namakkal
Namakkal District.
3. The Superintendent Police
Namakkal District,
Namakkal.
4. The Superintendent of Prison
Central Prison,
Salem District.
5. The Inspector of Police
PEW-Namakkal Police Station,
Namakkal District.
6. The Public Prosecutor,
High Court of Madras.
7. The Joint Secretary to Government,
Public (Law and Order),
Secretariat, Fort.St.George, Chennai -9.



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DR.ANITA SUMANTH J.

AND

SUNDER MOHAN J.

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