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HCP.No.2012 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.12.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2012 of 2025

Balan

.. Petitioner

Versus

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2. The Commissioner of Police,
O/o. The Commissioner of Police,
Greater Chennai, Chennai-600 007.

3.The Superintendent of Police,
Central Prison, Puzhal-II,
Puzhal, Chennai-600 066.

4.State rep by,
The Inspector of Police,
Forgery Investigating Wing Beta – 9,
Central Crime Branch,
Vepery, Chennai.

.. Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus to call for the records relating to the detention order passed by the 2nd respondent No.639/BBCDEFGISSSV/2025 dated 03.09.2025 against the petitioner's son branding him as "GOONDA" and quash the same and direct the respondent to produce petitioner's son Gajendran, S/o. Balan, aged about 38 years, now confined at Central Prison, Puzhal-II, Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Vinoth Kumar and
Mr.A.Nirmal Kumar Sharma

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This Habeas Corpus Petition has been filed by the father of the detenu viz., Gajendran, S/o. Balan, aged about 38 years, challenging the detention order passed by the 2nd respondent No.639/BBCDEFGISSSV/2025 dated 03.09.2025, branding the petitioner's son as "GOONDA" and quash the same and direct the respondent to produce the petitioner's son, now confined at Central Prison, Puzhal-II, Chennai before this Court and set him at liberty.

2. The learned counsel appearing for the petitioner would submit that the subjective satisfaction expressed by the Detaining Authority while

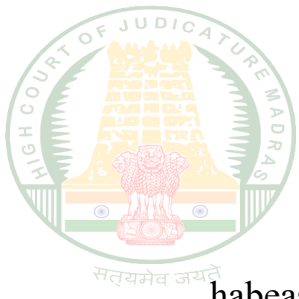


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passing the detention order is without application of mind and when there is no bail application filed and dismissed, the question of another bail application will not arise, which shows clear non-application of mind on the part of the detaining authority. The learned counsel for the petitioner would further submit that Page nos.79, 83, 85, 89, 91, 103, 105 and 113 of the booklet furnished to the detenu are not legible and readable, which deprived the detenu to make effective representation and as such, on that ground also, the impugned detention order is vitiated.

3.*Per contra*, learned Additional Public Prosecutor would submit that the Detaining Authority has passed the order of detention after rightly arriving at the subjective satisfaction and the pages relied on by the petitioner in the grounds are untenable, as only legible and readable pages alone were furnished in the booklet to the detenu and prays for dismissal of this petition.

4. Heard both sides and perused the materials on record.



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5. Though several grounds have been raised by the petitioner in the

habeas corpus petition while assailing the impugned detention order, the learned counsel for the petitioner mainly focused that the subjective satisfaction expressed by the Detaining Authority is without application of mind and illegible and unreadable copies have been furnished to the detenu in the booklet, which prevented the detenu from making an effective representation.

6. A perusal of the booklet furnished to the detenu would disclose that some of the pages annexed in the booked supplied to the detenu are not legible, namely Page Nos.79, 83, 85, 89, 91, 103, 105, 113 and as such, we find that furnishing illegible copies would deprive the detenu from making an effective representation against the order of detention. The Hon'ble Supreme Court in *State of Manipur Vs. Buyamayum Abdul Hanan* reported in **(2022) 19 SCC 509** has held that supply of the illegible copy of documents which has been relied upon by the detaining authority has deprived the detenu in making an effective representation. Relevant paragraphs of Hon'ble Supreme Court are paragraphs 22 and 23 and the same read as follows:



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'22. Thus, the legal position has been settled by this Court that the right to make representation is a fundamental right of the detenu under Article 22(5) of the Constitution and supply of the illegible copy of documents which has been relied upon by the detaining authority indeed has deprived him in making an effective representation and denial thereof will hold the order of detention illegal and not in accordance with the procedure contemplated under law.

23. It is the admitted case of the parties that Respondent 1 has failed to question before the detaining authority that illegible or blurred copies were supplied to him which were relied upon while passing the order of detention, but the right to make representation being a fundamental right under Article 22(5) of the Constitution in order to make effective representation, the detenu is always entitled to be supplied with the legible copies of the documents relied upon by the detaining authority and such information made in the grounds of detention enables him to make an effective representation. '

Therefore, we are inclined to set aside the impugned detention order on the ground that supply of illegible copies of documents relied on by the detaining authority has caused prejudice to the detenu in making an effective representation against the impugned order of detention.

7. Further, the Detaining Authority has made an averment in the grounds of detention at Para 4 that the detenu is in remand in Central Crime



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Branch-I Cr.No.120/2025 and he has not moved any bail application so far

and the sponsoring authority has stated that it is learnt that the relatives of the detenu are taking action to take him on bail by filing bail application before the appropriate court. Hence, the subjective satisfaction expressed by the Detaining Authority that the detenu is likely to come out on bail by filing another bail application before the appropriate Court, is without application of mind and as such, on that ground also, the impugned detention order is liable to be vitiated.

8. In the result, the detention order passed by the 2nd respondent dated 03.09.2025 in No.639/BBCDEFGISSSV/2025 is set aside and the Habeas Corpus Petition is allowed. The detenu viz., Gajendran, S/o. Balan, aged about 38 years, now confined at Central Prison, Puzhal-II, Chennai, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[P.V., J.] [M.J.R., J.]
04.12.2025

Index: Yes/No
Neutral Citation: Yes/No
Jvm



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5. The Public Prosecutor
High Court, Madras.



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