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HCP.No.2178 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.2178 of 2025

Hafijul Rahman

... Petitioner/
Brother of the detenu

Versus

1. The State of Tamil Nadu
Rep. by the Additional Chief Secretary to
Government (Home),
Prohibition and Excise Department
Secretariat, Chennai – 600 009.
2. The District Magistrate and District Collector,
Namakkal District, Namakkal.
3. The Superintendent of Police,
Namakkal District, Namakkal.
4. The Superintendent of Prison,
Central Prison, Salem,
Salem District.



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5. The Inspector of Police,
PEW – Thiruchengodu Police Station,
Namakkal District.

.. Respondents

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 pertaining to the order of detention passed in C.M.P.No.16/DRUG OFFENDER/2025/M1, dated 02.03.2025 passed by the second respondent and set aside the same and directing the respondents to produce petitioner's brother by name Aitikur Rahman son of Ajgar Ali aged about 27 years, now confined in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.C.Deepakkumar

For Respondents : Mr.R.Munniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

(Order of the Court was made by P.VELMURUGAN J.)

The petitioner, who is the brother of the detenu Aitikur Rahman son of Ajgar Ali, male, aged 27 years, has come forward with this petition challenging the detention order passed by the second respondent dated 02.03.2025 bearing reference C.M.P.No.16/DRUG OFFENDER/2025/M1, slapped on his brother Aitikur Rahman son of Ajgar Ali, male, aged 27



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years, now confined in Central Prison, Salem, branding him as "Drug

Offender" under the Tamil Nadu Prevention of Dangerous Activities of

Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,

Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders,

Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though very many grounds have been raised in the support affidavit assailing the detention order, in the hearing, the learned counsel for the petitioner mainly focused his argument on the ground that the Detaining Authority has not supplied the translated copy of the grounds of detention (English version) in the language which the detenu is conversant with. It is, therefore, stated that the detenu is deprived of his valuable right to make an effective representation. Therefore, on the sole ground, the detention order is liable to be quashed.

4. Learned Additional Public Prosecutor has not refuted the non-



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supply of the translated version of grounds of detention to the detenu.

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5. On perusal of the booklet furnished to the detenu, it is seen that the translated version of the grounds of detention has not been enclosed in the booklet, which prevented the detenu from making an effective representation and that the Detention Order passed by the Detaining Authority is vitiated.

6. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in (1999) **2 SCC 413**. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making 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. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:

"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



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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.

.....

16.*For the above reasons, in our view, the non-supply 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*



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to be detained in any other case. The appeal is accordingly allowed."

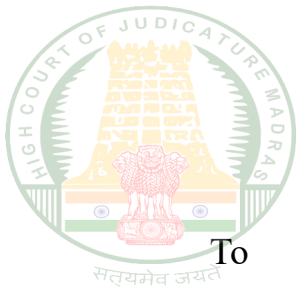
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7. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid reasons, this Court is of the view that the detention order is liable to be quashed.

8. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 02.03.2025 in C.M.P.No.16/DRUG OFFENDER/2025/M1, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Aitikur Rahman, S/o Ajgar Ali, male, aged 27 years, 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
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To

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State of Tamil Nadu
Prohibition and Excise Department
Secretariat, Chennai – 600 009.
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3. The Superintendent of Police,
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5. The Inspector of Police,
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6. The Public Prosecutor
High Court, Madras.



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