

(2026) 02 MAD CK 1722

In the Madras High Court, Madurai Bench

Case No : Habeas Corpus Petition (MD) No. 1259 Of 2025

E.Shanmugathai

APPELLANT

Vs

State Of Tamil Nadu And Others

RESPONDENT

Date of Decision : 05-02-2026

Acts Referred:

Constitution Of India, 1950 — Article 22(5)
Tamil Nadu Prevention Of Dangerous Activities Of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders And Slum- Grabbers, Act, 1982 — Section 2(e)

Citation : (2026) 02 MAD CK 1722

Hon'ble Judges : G.K. Ilanthiraiyan, J;R. Poornima, J

Bench : Division Bench

Advocate : N.Pragalathan, T.Senthil Kumar

Final Decision : Allowed

Judgement

G.K. Ilanthiraiyan, J

1. The petitioner is the mother of the detenu viz., Kalimuthupandiyan, aged about 20 years, S/o.Esakkimuthu. The detenu has been detained by the second respondent by his order in M.H.S.Confdl No.56 of 2025 dated 10.07.2025 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. The learned counsel appearing for the petitioner submitted that the detenu was not served with legible copy of page nos.5,51 and 93 of the booklet, therefore the detenu is deprived of his valuable right to make an effective representation to reconsider the order of detention.

4. On a perusal of the counter affidavit and also the submission made the learned Additional Public Prosecutor appearing for the respondents, it is revealed

that the detenu was not served with legible copy of the page nos. 5,51 and 93 of the booklet, therefore, the detenu could not able to make an effective representation to reconsider the order of detention. Hence, on this sole ground, the present impugned detention order is also liable to be set aside.

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:

"6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

...

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.

...

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."

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 legible copy of the page nos. 5,51 and 93 of the booklet 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 M.H.S.Confdl No.56 of 2025 dated 10.07.2025, passed by the second respondent is set aside. The detenu, viz., Kalimuthupandiyan, aged about 20 years, S/o.Esakkimuthu, is directed to be released forthwith unless his detention is required in connection with any other case.