

(1995) 07 MAD CK 0013
In the Madras High Court
Case No : H.C.P. No. 396 of 1995

Paulraj	Vs	APPELLANT
The State of Tamil Nadu		RESPONDENT

Date of Decision : 26-07-1995

Acts Referred:

Citation : (1995) 2 LW(Cri) 704

Hon'ble Judges : Thangamani, J; Ahunuchalam, J

Bench : Division Bench

Advocate : V. Parthiban, for the Appellant; I. Subramanian, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Arunachalam, J.—Petitioner Paulraj has been detained as a "bootlegger" under Tamil Nadu Act 14 of 1982, in pursuance of an order of

detention dated 19.11.1994, passed by the second respondent, District Magistrate and Collector, Madurai, with a view to preventing him from

acting in any manner prejudicial to the maintenance of public order.

2. It will be totally unnecessary to state the facts in detail, which led to the passing of the impugned order of detention, for on two substantial

grounds petitioner will have to be freed from the clutches of this instant preventive order.

3. In page 35 of the paper book supplied to the detenu we are able to notice a communication addressed by the Inspector of Police, Gandamanur,

to the Detaining Authority stating that in spite of the detenu having been directed to be released on conditional bail by the Court of Sessions,

Madurai, he had not executed bonds for his release and hence he was a remand

prisoner in Sub Jail, Usilampatti, till 19.11.1995, the date on which the impugned order was passed. This communication in-English, is certainly a relied upon document, for mention has been made about it in the grounds of detention. This document had not been, admittedly, supplied to the detenu in Tamil, the only language known to him. Non-furnishing of relied upon material to the detenu in the language known to him, would alone suffice, to vice the impugned order.

4. We find another grave lacuna in the grounds of detention. Detaining Authority has stated in paragraph 5 that he was aware that Paulraj (detenu) was in remand and that he had not been released on bail, though he had been directed to be let out on bail. Without stating any further, on imminent possibilities, Detaining Authority has merely stated that if the detenu were allowed to remain at large, he will induce in further prejudicial activities. No where, application of mind to the fact of the likelihood of the detenu coming out on bail by furnishing sureties, has been stated. It is not as though this is an omission in this paragraph alone for, in paragraph 6 of the grounds, again the Detaining Authority has stated that if the detenu were let to remain at large, he will indulge in further prejudicial activities. Non-application of mind is apparent. On both the grounds, detenu is bound to succeed.

5. The impugned order of detention shall stand quashed. The detenu is directed to be set at liberty forthwith, unless his detention is otherwise required. This habeas corpus petition is allowed.