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HCP No.1315 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.1315 of 2022

Imran

S/o.Kadhar Ali

... Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissionerate,
Vepery High Road, Vepery,
Chennai – 600007.

3.The Superintendent of Prison,
Central Prison, Puzhal.

4.The Inspector of Police,
C-2, Elephant Gate Police Station,
Chennai.

... Respondents



HCP No.1315 of 2022

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the entire records leading to the detention of the petitioner namely Mohamed Naushad Ali, Age 35, S/o.Kadhar Ali vide detention order dated 02.06.2022 on the file of the 2nd respondent herein made in the proceedings in No.132/BCDFGISSSV/2022 quash the same and consequently direct the respondents herein to produce the body and person of the said Mohamed Naushad Ali before this Court and thereafter set him at liberty from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.N.Nishar Ahamed
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **P.N.PRAKASH, J.**]

The petitioner is the brother of the detenu, Mohamed Naushad Ali S/o.Kadhar Ali, aged 35 years. The detenu has been detained by the second respondent by his order in No.132/BCDFGISSSV/2022 dated 02.06.2022, 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.



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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. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the arrest intimation pertaining to the ground case has not been properly translated in vernacular language. This deprived the detenu from making effective representation. Therefore, on these grounds, the detention order is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the State submitted that the detenu was arrested on 22.04.2022 and remanded to judicial custody. The investigation was completed and final report has been filed on time on 18.10.2022 before the Principal Sessions Court, Chennai and the same was taken on file in C.C.No.342 of 2022.



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5. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially, Page Nos.50 & 53 of the booklet, it is clear that the arrest intimation pertaining to the ground case has not been properly translated in vernacular language. Thus, the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.132/BCDFGISSSV/2022 dated 02.06.2022, passed by the second respondent is set aside. The detenu, viz., Mohamed Naushad Ali S/o.Kadhar Ali, aged 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
23.12.2022

Index: Yes/No
gm/ssr

To

1.The Principal Sessions Court,
Chennai.



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- 2.The Secretary,
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- 3.The Commissioner of Police,
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Office of the Commissionerate,
Vepery High Road, Vepery,
Chennai – 600007.
- 4.The Superintendent of Prison,
Central Prison, Puzhal.
- 5.The Inspector of Police,
C-2, Elephant Gate Police Station,
Chennai.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 7.The Public Prosecutor,
High Court, Madras.



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and
N.ANAND VENKATESH, J.

SSR

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