



HCP(MD)No.570 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.(MD)No.570 of 2022

Nagalakshmi

: Petitioner

Vs.

1.The Secretary to Government,

Food, Co-operation and Consumer Protection Department,

Nammakkal Kavignar Maaligai 2nd floor,

Secretariat,

Chennai – 600 009.

2.The Commissioner of Police,

Office of the Commissioner of Police,

Tirunelveli City.

3.The Additional Secretary to Government of India,

Department of Consumer Affairs,

Food and Consumers Affairs Department,

Room No.2, Good, Krishi Bhavan,

New Delhi – 110 001.



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4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order of the second respondent in No.2/BM/2022 dated 24.03.2022 and quash the same and direct the respondents to produce the detenu by name Udaiyar, son of Arunachalam, aged about 39 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents 1, 2 & 4 : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

For Respondent No.3 : Mr.P.Subbiah

Central Government Standing Counsel

O R D E R

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

The detenu viz., Udaiyar [A2] in this case was arrested by the Sub-Inspector of Police, Civil Supplies Criminal Investigation



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Department, Tirunelveli Unit in Crime No.68 of 2022 on 11.03.2022, for the offences under Sections 6(4) of the Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982, r/w. Section 7(1)(a)(ii) of the Essential Commodities Act, 1955, along with one Valathiraj [A1], for possession of 17 tons of alleged PDS rice. While he was in judicial custody for a period of six [6] months, he has been detained as a “Black Marketer” on 24.03.2022, under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) [for brevity 'the Act'], by the second respondent by his order in No.2/BM/2022. The said order is under challenge in this Habeas Corpus Petition.

2.It appears that Valathiraj [A1] was also detained as a “ Black Marketer” but the detention order has been set aside by the Advisory Board.

3.Learned Counsel for the petitioner submitted that the Quality Certificate which has been relied upon by the detaining authority for clamping the detenu is in English and the Tamil translation of the same was not furnished to the detenu.



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4.We have perused the booklet and noted that the Tamil translation of the final opinion of the Quality Inspector has not been furnished to the detenu. In support of the above plea, learned Counsel for the petitioner placed strong reliance on the following observations of this Court in H.C.P.No.507 of 2018 dated 12.06.2018, which reads as under:

“15.Coming to the aspect of Quality Certificate dated 08.12.2017, issued by the Regional Laboratory, Tamil Nadu Civil Supplies Corporation, Salem Region, wherein, the Certificate to the effect that 'sample was analysed and it belongs to PDS', was not translated into Tamil Version and the same was not supplied to the Detenu. The very failure to furnish the Vernacular Language of the Quality Certificate to the Detenu, had resulted in deprivation of the Detenu's right to make an effective and efficacious Representation to the Authority(s) concerned. In this regard also, there is a violation of Article 22(5) of the Constitution of India.”

5.Following the above, this Habeas Corpus Petition is allowed and the order of detention in No.2/BM/2022 dated 24.03.2022, passed by the second respondent is set aside. The detenu, viz., Udaiyar, aged



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about 39 years, son of Arunachalam, is directed to be released forthwith unless his detention is required in connection with any other case.

[P.N.P.J.] & [R.H.,J.]

10.08.2022

Index : Yes/No

Internet : Yes/No

MR



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5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.N.PRAKASH, J.
and
R.HEMALATHA, J.

MR

ORDER MADE IN
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