



HCP(MD)No.1080 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2023

CORAM

**THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1080 of 2022

Asai @ Asaikumar

.. Petitioner /Detenu

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Theni District,
Theni.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

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 respondent No.2 in Detention Order No.48 of 2022



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dated 02.06.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Asai @ Asaikumar, son of shunthathevar, aged about 45 years, now detained as “Drug Offender” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR. G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

This Habeas Corpus Petition is filed by the detenu viz., Asai @ Asaikumar, aged about 45 years, S/o.Shunthathevar. The detenu has been detained by the second respondent, by his order in Detention Order No.48 of 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.The detention order indicates that the detenu involved in drug offence and his presence is menace of the society. Further, in the ground case, the accused was found in possession of 11 Kgs of ganja and in the adverse case also the possession was within the in between quantity.

4.The learned counsel appearing for the petitioner submitted that while making representation, a specific request was made to furnish Tamil version of all those documents, which are in English. However, Tamil translation was not provided to the detenu and hence, the detenu was not able to make an effective representation. In view of the same, the learned counsel submitted that there is infraction of fundamental rights of the detenu and hence, the detention order suffers from illegality.

5.Though several points were canvassed challenging the detention order, this Court is convinced with a point that the remand order was not



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provided to the detenu in vernacular language, which prevented him for making effective representation. Thus, it reflects non application of mind on the part of the detaining authority. The impugned detention order is, therefore, liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.48 of 2022 dated 02.06.2022 passed by the second respondent is set aside. The detenu, Asai @ Asaikumar, aged about 45 years, S/o.Shunthathevar, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.J.,J.) (S.M.,J.)
23.01.2023

NCC :Yes/No
Index:Yes/No
Internet:Yes/No
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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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