



HCP(MD)No.1221 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2023

CORAM

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

H.C.P.(MD)No.1221 of 2022

Alagar

.. 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

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the entire records pertaining to the
detention order of the 2nd respondent in Detention Order No.58/2022 dated



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23.06.2022 and quash the same and direct the respondents to produce the person or body of the detenu, by name, Alagar, son of Karuppaiah, aged about 36 years, now detained as 'Drug Offender' at Madurai Central Prison, before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

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

The detenu Alagar, detained under Act 14 of 1982 for being involved in trafficking of Narcotic Drug, is before this Court challenging the detention order dated 23.06.2022.

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.



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3. According to the learned counsel for the petitioner the detention order suffers from infirmity, non application of mind and non furnishing of tamil version of the remand order. Hence, the detenu was not able to make an effective representation.

4. The learned Additional Public Prosecutor submitted that the petitioner is a notorious drug offender having three previous cases apart from the present ground case. He further submitted that the detenu is having three adverse cases in similar nature.

5. We have carefully gone through the detention order and the paper book that has been placed before this Court. The records indicates that the first adverse case is of the year 2019 involving 1.100 kgs of Ganja; the second and third adverse cases are in the year 2020 involving 1.500 kgs and 1.100 kgs of Ganja respectively. In the ground case, it is alleged that 1.250 kgs of Ganja was seized from the possession of the detenu. It is also seen that only English version of the remand order in the ground is available and the tamil translation has not been furnished. Though there are materials to



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show that the petitioner is a habitual offender, since he was not furnished with the tamil version of the remand order, the detenu was not able to make an effective representation and it affect his right under Article 22 of the Constitution of India. Therefore, on that score, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.58/2022 dated 23.06.2022, passed by the second respondent is set aside. The detenu, Alagar, son of Karuppaiah, aged about 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
19.01.2023

Internet: Yes/No
Index: Yes/No
PJJ

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



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2.The District Collector and District Magistrate,
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Theni.

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

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



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

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