
**IN THE SUPREME COURT
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

PETITION

***In the matter of an Application under
and in terms of Article 126 read with
Article 17 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka.***

Sellasamy Devapalan,
Registered Attorney-at-Law
No.34/1, Nelson Place,
Colombo 06

On behalf of

**Muhammadhu Jazeem Muhammadhu
Ahnaf (Ahnab) alias Mannaramudhu
Ahnaf**
No. 57/2, Pandaraveli,
Chilavathurai.

SC (FR) Application No.

The Detainee,

Currently detained in the custody of 1st
and/or 2nd and/or 3rd Respondents at
Counter Terrorism and Investigation
Division (TID)
New Secretariat Building,
Colombo – 01.

PETITIONER

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- v -

1. General (Retd) G.D.H. Kamal
Gunaratne,
Secretary
Ministry of Defense,
Colombo.

2. C.D.Wickremaratne,
Inspector General of Police,
Police Head Quarters,
Colombo 01.
3. Prasantha de Silva,
Director,
Counter Terrorism and Investigation
Division (TID),
New Secretariat Building,
Colombo – 01.
4. K.K.J Anurashantha,
Inspector of Police,
Counter Terrorism and Investigation
Division (TID),
Vavuniya.
5. The Director,
Criminal Investigation Division,
New Secretary Building
Colombo – 01.
6. Hon. Attorney General,
Attorney General's Department,
Colombo – 12.

RESPONDENTS

On this 10th day of April, 2021

**TO: HIS LORDSHIP THE CHIEF JUSTICE AND THEIR LORDSHIPS THE OTHER
HONOURABLE JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

The Petition of **Muhammadhu Jazeem Muhammadhu Ahnaf (Ahnab) alias Mannaramudhu Ahnaf** represented by S.Devapalan, Attorney-at-Law states as follows:-

1. The Petitioner, an Attorney-at-Law, making this application on behalf of the detainee, Mohamed Jazeem Mohammed Ahnaf (hereinafter referred to as **Ahnaf Jazeem** and sometimes as **the Poet**) states that it is not possible for Ahnaf Jazeem to file this case or submit an Affidavit in person and, therefore, the Petitioner, as his

Attorney-at-Law, files this Petition on behalf of Ahnaf Jazeem under Article 126 of the Constitution and according to Rule 44 of Supreme Court Rules 1990 published in the Gazette (Extraordinary) No. 665/32 dated 7th June, 1991

2. The Petitioner states on the 8th March, 2021, Attorneys-at-Law, Sanjaya Wilson Jayasekera and Swasthika Arulingam were granted permission to meet Ahnaf Jazeem while at the TID's detention at TID's office, 2nd Floor, New Secretariat Building, Colombo 01. However, throughout the consultation between them and their client, the Poet, two TID Officers were present listening to the conversation. The conversation was also tape-recorded stealthily, unknown to the Attorneys-at-Law at the time of recording. Due to TID officers presence, the Attorneys-at-Law were unable to have a proper consultation with their client, Ahnaf Jazeem. However, instructions were able to be obtained to file this Action on his behalf.
3. Further, given the urgency of the case it has become necessary for the Petitioner to file this Action on the instructions of Ahnaf Jazeem's father Abdul Gafoor Mohammadhu Jazeem (also Jayeem). The Petitioner is specifically instructed to file this application and state as herein averred upon his personal knowledge, from documents and information available to him and from the instructions received.
4. The Petitioner, a citizen of the Democratic Socialist Republic of Sri Lanka, is instructed to state that Ahnaf Jazeem is a citizen of the said Republic and makes this application through the Petitioner seeking relief in respect of the infringement, continuing infringement and imminent infringement of his fundamental rights guaranteed by and under the Constitution as hereinafter set out.

DETAINEE: A POET AND A TEACHER

5. The Petitioner is instructed to state that Ahnaf Jazeem is 26 years old youth and completed a degree programme in March 2019 from the Naleemiah Institute of Islamic Studies, Beruwela (a prestigious Islamic academic institution established in 1973), with a class of second lower, which degree is recognized as an equivalent degree awarded by International Islamic University of Islamabad (IIUI).

A Curriculum Vite of the Poet prepared by himself in June 2019 is annexed hereto marked as P1 and pleaded as part and parcel hereof.

6. Ahnaf Jazeem has been a writer of poems and short stories since his school times, has presented his poems to poetry competitions and has been awarded. Lately, he has been publishing his poems under his pen name Mannaramudhu Ahnaf in his web-blog, <https://www.mannaaramudhu.blogspot.com/> .

*True copies of several awards and certificates received by Ahnaf Jazeem are annexed hereto compendiously marked as **P1A** and pleaded as part and parcel hereof.*

The Petitioner is instructed that some important documents relating to the Poet's achievements are unavailable with his family as they were kept in the School of Excellence (where he was employed) premises, where the Poet was staying and this premises/building was occupied by Police, depriving the family of any access to the said documents.

7. On or about 01st July 2019, Ahnaf Jazeem joined as a teacher of Tamil Language and Literature at the 'School of Excellence' at Azhar Nagar, Sembatte, Madurankuliya, Puttalam, an international private school, teaching local syllabus.

*A true copy of the letter of appointment as a teacher, dated 01.07.2019, is annexed hereto marked as **P2** and pleaded as part and parcel hereof.*

8. In 2017, Ahnaf Jazeem published a Tamil poetry book titled 'Navarasam (நவரசம்)', a collection of poems that he had written from time-to-time. The book was launched at the Main Hall of Mn/Pandaraweli Muslim Maha Vidyalaya which was attended to by close to thousand poetry lovers. It was the first ever book launch held in the said village and in the said village school.

9. 'Navarasam' symbolizes the varied human emotions, nine in number. The poetry book was written under the headings of the Nine emotions (wonder, humour, valour, peace, fury, happiness, fear, shame, kindness) and each heading having five poems written under the each 'rasa'.

*A copy of the poetry book "Navarasam" is annexed hereto marked as **P3** and pleaded as part and parcel hereof. The Petitioner states that he has only one original*

of the poetry book “Navarasam” in his possession and the Petitioner undertakes to make the same available to Your Lordships’ Court if so ordered to by Your Lordships’ Court.

*An authoritative translation/paraphrasing of select number of poems in the said anthology done by Professor Sumathy Sivamohan of the Department of English of the University of Peradeniya and Dr.Thiruvarangan Mahendran, Department of Linguistics & English, University of Jaffna is annexed hereto marked as **P3(A)** and pleaded as part and parcel hereof.*

*Translations of the rest of the poems in the said anthology done by acclaimed poet, translator and writer Somasundarampillai (Sopa) Padmanadan is annexed hereto marked as **P3(B)** and pleaded as part and parcel hereof.*

10. The book ‘Navarasam’ contains wide range of topics including private and social life - such as mother’s love, danger of drugs and of consuming alcohol, motivational poems for self-discipline and for success, poems against war, poems about Islamic History and about current affairs. Some of the poems are written to discuss relationship breakups, praise the Glory of God, condemn Islamic State terrorism (ISIS), raise the issue of the incompetence of the UN system to address global poverty and war, etc. The poems show the Poet’s empathy towards human suffering, his sentiments against racism, violence and abuse of religion, and his piety towards God.
11. For the convenience of Court the following translations of the two poems directly referring to the Organisation, Islamic State in Iraq and Syria (ISIS) is quoted below from “**P3A**”

A Poem for a Gathering (Mandrakavi, pp. 73 – 75 of P3).

Summary: *The poem begins by praising God almighty. Then it speaks about the false political campaigns carried out by powerful actors including the US and the betrayals Arabs have been subjected to. The poet then goes on to talk about the violent acts committed by the ISIS and repudiates its attempts to speak on behalf of Islam. The speaker then takes the UN to task for its failures and the charades it churns out. The poem ends with a question about how the obstacles to peace can be overcome and when truth will see the light of the day. This is in the category of Rasa Anger.*

Paraphrase:

Unparalleled, uncontained, boundless and without bonds, he executes what he ordains, halting that on the move, and placing us on a stage of unfolding drama. Our good Lord. Our Almighty whose name I invoke! All praise goes to him, Alhamdulillah.

He is the one and only. He is our God. He sent us his messenger. He is the earth's charioteer, its hero, an excellent sailor who guides those adrift in the sea.

Let's praise Prophet Muhammad. Let darkness spread sparingly. It is rarely that a poem takes conception. It is common for people to become sinners quickly. I sprinkle pieces of gold at the feet of our tradition. Asalamalaikkum.

*Bullying. Fake campaigns, fake shows and false praise. America gave them succour. The whole world colluded with them. They betrayed the Arabs. Now they are bold with their interviews! **I have come to tell the story of the ISIS's cruelty, their violence and the suffering they have caused.** I have come to spit on those unruly scoundrels. I have come to smear their faces with cow-dung liquid. I have come here to do that so that at least I could escape the (wrath) of God.*

They say they have established a goodly state. The Islamic State is calling everyone to join them. The heads of many are shattered. The drums of battle roll out the name of Dharma. It calls for war, sets off arrow after arrow. America is busy taking care of itself. The bog has been stirred. The bait is on the hook. The money makers are thriving.

When you shove people, who cannot even get up on their own, into the bounded pond, cage them in it, kill them and later say, "our way is the Prophet's way," could one call it justice?

Lives wither. Crops scream. The stench of corpses rises in circles. So many children are crying. But the pig-headed idiot is blabbering that the religious way, religion, Islam, is blooming. Which system of justice would call this just?

Heads, strands of hair, and hands of children are scattered across all of Syria. There is none left, to think that the decaying corpses need a burial.

UN, you hold your meetings, folding your together in welcoming gesture; with many in attendance, with pomp and fanfare, with displays of women's bodies. When will your lying tongue, lie still in defeat?

*Rein in and bring to heel these unbowing arrogant impediments. When will that be?
When will truth, lying prone without life, rise again?*

How can I Celebrate Eid? (Eppadi Kondaduvathu pp. 76-78)

Summary: *this poem talks about the injustice and violence Muslims across the world are facing and the inability of the writer to celebrate Eid while there is so much suffering of fellow Muslims all over the world. The poem goes onto say that when one day there is no war, he will celebrate Eid. The rasa is anger.*

Paraphrase

The meadow is lush and verdant. The highway is full of people. There is an army of birds in the park. There is a beautiful moment at dawn. The flames of the sun burn beautifully at dusk.

When all these come together and the people in their crores gather together to recite the Takbir, we will celebrate.

But that is not so. When the children of Syria while playing laughingly are reduced to pieces by the surging cannons of fire, how can I celebrate Eid?

Black attire. Hatred upfront. Spewing fire! We shall slipper them! The ISIS is responsible for it all. Who is to check them and say No?

When my brother and sister wept and were burnt in Burma, I remained dead like a mummy.

And the day after, how can I celebrate Eid?

When my cousin and aunt have their heads bored through, when their flesh is popping out, and when they lie fainted, how can I celebrate Eid?

When my uncle and aunt are burnt alive with petrol and the world turns a blind eye, how can I celebrate Eid?

When in Palestine, death is an invitee. There is a heap of bullets there. The corpses of our kin smell foul in the absence of care. We go unperturbed. How can I celebrate Eid?

When we eat the dates from the trees of Arabia standing tall and beautifully and all kinds of dishes to break the fast,

there are those in Aqsa who break their fast holding bullets, guns, stones and catapults in their hands. Then how can I celebrate Eid?

In India, amidst the thundering of drums, a characterless fellow is asserting "cut them into pieces". When I don't have the guts to challenge him, how can I celebrate Eid?

The one who came to rule the whole world, taught us mercy and showed us the path to heaven, Prophet Mohammed. When bombs go off in his grave, how can I celebrate Eid?

The world over, while wellness is waning and enmity stays alive, the fires of hell overflow.

Shall each of us give a handful of blood? Won't this war end even then?

There is war all the time. Blood and noise. Once we have wiped them all off and have made a brand new world free of war, and then if we celebrate Eid in our new clothes, I will also celebrate.

The Affidavit of Retired Professor Macbool Alim Mohamed Nuhman of University of Peradeniya, confirming that the Poetry anthology Navarasam includes nothing advocating or supporting Muslim extremism is annexed hereto marked as **P4(A)** and pleaded as part and parcel hereof.

The Affidavit of Professor Godwin Roger Constantine of University of Colombo, confirming the same and appreciating Ahnaf Jazeem as a gifted poet is annexed hereto marked as **P4(B)** and pleaded as part and parcel hereof.

The Petitioner is further instructed that the Poet Ahnaf Jazeem had, written and posted a poem on his blog, titled "**Not a Day of resurrection, but a Day of Life Lost**" on the 22nd April 2019, just a day after the Easter Sunday terrorist attacks, sympathizing with the innocents killed, condemning the attackers and disassociating the terrorists from the Islam religion. An English translation of the said poem done by Professor Sumathy Sivamohan of the Department of English, University of Peradeniya is as follows:

**Not a Day of resurrection, but a Day of Life Lost
By Anhaf Jazeem**

*Why take on the name of the Almighty,
when you have taken life, yours*

and others'?
The name of Islam is not for you
who destroyed your own life,
and the lives of others.
Why take on the name of Islam?

Why the name of the Prophet,
to whom you don't belong,
for you died and caused the death of so many others.
The Holy Book is not for you, no, never.

To take the life of a single being, who has not done any wrong;
is tantamount to wiping out the entire universe of humanity,
So said the Holy Book, have you not learnt so?

For 10 years we lived freely, heaved sighs of relief;
We celebrated the birth of new years, joyously,
and without humiliating fear;
You have changed all that in a single moment.

Mother Lanka is convulsed in cries of grief, but you,
in the hope of a life of everlasting bliss,
took your own life, and worse,
set us all on the pyre of death, in a death by fire.

If for you, there was pleasure in dying,
you could have crept to a corner
to die a miserable death;
Why did you have to kill us all
slowly, in a daily ritual
of dying while living.

Islam condemns all acts of suicide.
But you, in the name of Islam,
not only committed suicide, but also murder.
How can you be a follower of Islam?
And why do you call yourself a follower of Islam?
What pleasure did you derive from seeing
bodies shattered apart in a bath of blood,
What means that victory?

Our Prophet said even in war
one should not harm the young and the elderly!
You have thrown those words to the wind!

Do not insult the God of other religions,
for if you do so, they would insult yours;
But in a single moment, you blasted places of worship.

It was a day of celebration, but
you had to choose that moment to commit this heinous act;
You will reap the dire consequences of this deed, for sure;
I will bear witness to that.

*A mother, a daughter,
a grandfather and a grandson are gone in a moment,
shattered beyond recognition.
You too lost your identity,
but Islam and Muslims are in the dock now,
'cos of your lowly deed.
You will daily die a death of infamy.*

*I heap a million curses set in fire on you,
for killing us without killing us,
and for scattering apart all friendship.*

*Jesus rose from the day, on this Sunday,
So, praise all, all over the world
on this holy day of celebration.
That is not what I believe!*

*What I believe is that
200 persons love their innocent lives,
'cos of the dastardly act of
a handful of low-down beasts
of my own kind.
With tears, I pay my respect,
to those who lost their lives
on this day.*

*A screenshot image from the said blog page containing the said poem is annexed hereto marked as **P5** and pleaded as part and parcel hereof.*

12. The Petitioner states that, therefore, *prima facie*, it is apparent that the Poet, Ahnaf Jazeem did not, by way of his artistic writings, support or incite violence or motivated or promoted extremism, racism or violence within sections of the Muslim community, but on the contrary, exactly opposed the same.
13. Petitioner is instructed that at the time 'Navarasam' was published, it was widely circulated and discussed. Copies of the said anthology of poetry were also available in recognized public libraries including Colombo Public Library.

*Annexed hereto is a true copy of the letter issued by the Chief Librarian of the Public Library, Colombo marked as "**P6**" and is pleaded as part and parcel hereof.*

14. Even as a student and thereafter, the Poet Ahnaf Jazeem has been active in

educational, cultural and social activities in Mannar. In support of this application, the following persons and Organisations have given their Affidavits and letters confirming this fact, and that he was never engaged in advocating violence or extremism. They have further stated that in his book he has particularly written condemning ISIS, so that Muslim Youth in Sri Lanka would be warned against such extremist ideology.

- (a) The Affidavit of the Principal of the Musali National School is attached hereto marked as "**P7A**" and pleaded as part and parcel hereof.
- (b) Affidavit of the President and Secretary of Principal Association of Musali Division Chilavathurai is attached hereto marked as "**P7B**" and pleaded as part and parcel hereof.
- (c) The Affidavit of the President and Secretary of All Masjid Federation of Musali Town Masjid, Chilawathurai is attached hereto marked as "**P7C**" and pleaded as part and parcel hereof.
- (d) Affidavit of the Principal of Mn/Pandaraveli Muslim Maha Vidyalayam is annexed hereto marked as "**P7D**" and pleaded as part and parcel hereof.
- (e) The Letter issued by Secretary of All Ceylon Jamiyyathul Ulama dated 15.02.2021 is annexed hereto marked as "**P7E**" and pleaded as part and parcel hereof.
- (f) The Character certificate issued by President of Al-Masjithul Munawwar Jummah Mosque, Pandaraweli, Chilawathurai is annexed hereto marked as "**P7F**" and pleaded as part and parcel hereof.
- (g) The letter issued by the Secretary and President of the AL-Munawar Youth Club, Chilavathurai, Mannar is attached hereto marked as "**P7G**" and pleaded as part and parcel hereof.
- (h) The letter issued by the Secretary and President of the Rural Development Society, Pandarawely, Chilawathurai, Mannar is attached hereto marked as "**P7H**" and pleaded as par and parcel hereof.
- (i) The Letter from the President/Secretary Federation of Mannar Island

Mosques dated 1st February, 2021 is attached hereto marked as "**P7I**" and pleaded as part and parcel hereof.

(j) The Affidavit of the President and Secretary of the Pandaraveli Farmers Organisation is attached hereto marked as "**P7J**" and pleaded as part and parcel hereof.

(k) A letter issued by the Registrar of the Naleemiah Institute of Islamic Studies, Beruwela confirming that Ahnaf Jazeem was an outstanding student and was never exposed to Muslim extremism during the period of his studies at the institute is annexed hereto marked as **P7K** and pleaded as part and parcel hereof.

15. The Petitioner is instructed that Ahnaf Jazeem, while working as a teacher, was boarded at an accommodation given to him by the 'School of Excellence' together with the students of the 'School of Excellence' in the building which was permitted by 'Save the Pearls Foundation' to be temporarily occupied by the School of Excellence.

*A letter issued by the Principal of the School of Excellence confirming Ahnaf Jazeem's unblemished record as a teacher is annexed hereto marked as **P8** and pleaded as part and parcel hereof.*

THE RESPONDENTS

16. The Respondents are as follows:

a) The 1st Respondent is the Secretary to the Ministry of Defense under whose Ministry, Detention Orders are issued under Prevention of Terrorism Act (PTA) No.48 of 1979 as amended.

b) The 2nd Respondent is the Inspector General of Police under whose supervision the 3rd, 4th and 5th Respondents act.

c) The 3rd Respondent is the Director of the Counter Terrorism and Investigation Division (TID) under whose direction, supervision, the Poet Ahnaf Jazeem

was arrested and detained.

- d) The 3rd Respondent has been authorized under purported Detention Order MOD/LEG/PTA/63/2020 issued by the President of Sri Lanka on 19th May, 2020 to detain Ahnaf Jazeem in his custody. Since it was only the Minister of Defense who could have issued a Detention Order under PTA and, as under pre-20th Amendment Constitution, the President cannot retain with him any ministerial portfolio, the 3rd Respondent is obliged to explain to your Lordships' Court the legality of the Poet's detention by him under said purported detention order issued by the President, while there was no Minister of Defense appointed at the time of detention of Ahnaf Jazeem.
- e) The 4th Respondent is the arresting officer of Ahnaf Jazeem and had issued the arrest receipt dated 16th May, 2020.
- f) The 5th Respondent is the Director of the Criminal Investigations Department (CID) under whose direction the Poet Ahnaf Jazeem had once been named as a suspect and facts had been reported against him to Colombo Fort Magistrate Court under Case No. B13101/19.
- g) The 6th Respondent is the Hon. Attorney General of Sri Lanka and is made a party to this application in compliance with the requirements of Supreme Court Rule 44(1)(b) read with the Article 126(2) of the Constitution. The 6th Respondent is also made a party to this Action per Article 35(3) of the Constitution.

UNLAWFUL ARREST

- 17. The Petitioner is instructed that his client, Poet Ahnaf Jazeem had arrived at home in Pandaraweli, just as the School of Excellence was closed in early March, 2020 due to the first wave of COVID-19 pandemic.
- 18. The Poet Ahnaf Jazeem was arrested on the 16th May 2021 at his home. When the TID officers led by 4th Respondent had visited his home, Ahnaf Jazeem and his father had gone to Nanattam, a town close to Pandaraweli, to purchase consumer goods for the family during the short period when curfew imposed due to COVID-19 pandemic had been temporarily lifted. The poet and his father returned home just as

they received a phone call from the Poet's brother, who was at home, that TID officers were waiting for them at home, and they reached home around 7.30pm.

19. TID officers searched the house, collected 100 copies of *Navarasam* and about 50 other books including Arabic and Tamil Language books and Poetry books from the Poet's bookshelf and arrested Ahnaf Jazeem around 8.30pm. The Arrest Receipt dated 16th May, 2020 issued by the 04th Respondent states that Ahnaf Jazeem was arrested in the suspicion of having "published books on and taught his students 'extremism' and 'racism". The Petitioner is instructed that the TID officers had taken Ahnaf Jazeem to Mannar Police station in their vehicle and brought him to TID head office in Colombo on the following day.

A true copy of the said Arrest Receipt is annexed hereto marked as **P9** and pleaded as part and parcel hereof.

An affidavit of Muhammathu Buhaari Aneesa Umma, the mother of Poet Ahnaf Jazeem describing the events that took place on the 16th May 2020 and thereafter is annexed hereto marked as **P10** and pleaded as part and parcel hereof.

20. The Petitioner is instructed that, as per the records of the Fort Magistrate Court case (further report dated 17.06.2020), the 1st and/or 2nd and/or 3rd and/or 4th and/or 5th Respondents were reasonably aware of the contents of the poetry book *Navarasam*, much prior to the arrest of the Poet, as a copy of the same had been taken into the custody of the 5th Respondent and/or his subordinate officers on the 03rd May 2020. Therefore, it is apparent that the aforesaid 1st and/or 2nd and/or 3rd and/or 4th Respondents were or should have been reasonably well aware, at least, that the poetry book has nothing to do with advocating or promoting Muslim extremism, when Ahnaf Jazeem was arrested on the 16th May 2020, 13 days after the first copy of Navarasam was found by the Police. Thus, the said Respondents could not have come to hold a reasonable suspicion of Ahnaf Jazeem having written a book advocating (Muslim) extremism or racism. The Petitioner thus states the reasons given for the arrest is *prima facie* invalid, erroneous, and not supported by the evidence already had in their possession.

*The certified copy of the further reports, proceedings and journal entries on and after 17.06.2020 of the aforesaid Fort Magistrate Court Case No. B 13101/19 is annexed hereto marked as **P11** and pleaded as part and parcel hereof.*

21. The Petitioner is instructed to state and states that to the best of the knowledge of the administration and other teachers of the said "School of Excellence", Ahnaf Jazeem never taught students extremism or racism or promoted or advocated terrorism and, such activity, if such were, could not have been unknown to the said school administration and to fellow teachers. No such evidence was available with the 3rd and 4th Respondents to arrive at a reasonable suspicion of a commission of an offence by Ahnaf Jazeem to arrest him on the 16th May 2020.
22. The Petitioner reasonably apprehends and is instructed to state and states that the arrest of Poet Ahnaf Jazeem was motivated purely by extraneous political reasons and compulsions in order to capitalize on the Easter Sunday Attacks and to feed a vicious racist campaign against the citizens of the Mohammedan faith and thereby to divide and rule the people of the country. It is respectfully stated that the arrest of Poet Ahnaf Jazeem is malicious and arbitrary, based as it is on extraneous and illegal considerations and therefore infringes Poet Ahnaf Jazeem's fundamental rights guaranteed under Articles 12(1), 12(2) and 13(1) of the Constitution.
23. The 3rd Respondent has been authorized under the purported Detention Order MOD/LEG/PTA/63/2020 issued by the President of Sri Lanka on 19th May, 2020 to detain Poet Ahnaf Jazeem in his custody. Since it was only the Minister of Defense who could have issued a Detention Order under PTA and under the 19th Amendment (pre-20th Amendment Constitution), the President could not have held any ministerial portfolio, the 3rd Respondent acted without legal authority and is obligated to justify to Your Lordships' Court the legality of the Poet's detention by him under the said purported detention order issued by the President, while there was no Minister of Defense at the time of detention of Ahnaf Jazeem.
24. The Petitioner's client, Ahnaf Jazeem, is continuously detained purportedly under Detention Orders. However, other than the impugned first detention order, the Poet's family has not been issued or served with any other detention order authorizing the Poet's continuous detention for more than ten months.
25. The Petitioner is aware that his client, Ahnaf Jazeem has not been produced before any Court, except by TID upon 3rd Respondent's direct supervision, under Section 124 of the Criminal Procedure Code, to force the Poet to make a self-incriminating admission to Colombo Magistrate Court No.08 in case number B44230/8/20. The

TID, upon 3rd Respondent's supervision, has reported facts to the said Magistrate Court case about its investigation against Ahnaf Jazeem, under Section 115 of the Criminal Procedure Code.

A certified copy of the B-report and journal entries of the said Colombo Magistrate Court case is annexed hereto marked as P12 and pleaded as part and parcel hereof.

26. The Petitioner is instructed to state and states that Ahnaf Jazeem's initial and continuous detention without production before a Magistrate is ultra vires the Constitution and the law, and patently unlawful, and therefore infringes upon his fundamental rights guaranteed under Articles 12(1) and 13(2) of the Constitution.
27. The Petitioner states that on the 17th June 2020, the 5th Respondent caused through his subordinate officers to file a further report in Colombo Fort Magistrate Court case No. B13101/19 naming the Poet Ahnaf Jazeem as a suspect and reporting facts against him. Facts had been reported against the Poet even thereafter in the said case by the officers of CID acting under the authority of the 5th Respondent.
28. However, on the 03rd March, 2021, Mr.Dilipa Peiris, Deputy Solicitor General, on behalf of the 6th Respondent, appearing for CID and for officers authorized by the 5th Respondent, filing a further report of the same date, stated in open Court, when the said case No.B13101/19 was taken up, that the CID no longer wishes to proceed against Ahnaf Jazeem as a suspect in the said case, as a case is pending against the Poet in the Colombo Magistrate's court, which was confirmed to by TID officer Prasantha Rathnayake (SI) who was present in courts.

PURPORTED DETENTION ORDER(S) INVALID & DETENTION UNLAWFUL

29. The Petitioner is instructed that except for the copy of the purported first detention order, the family or lawyers of Ahnaf Jazeem have not been served with any other detention orders, even when the same was requested for by the said Attorneys-at-Law when they visited Ahnaf Jazeem at TID custody on the 08th March 2021.
30. A purported Detention Order MOD/LEG/PTA/63/2020 dated 19th May, 2020 has been issued against Ahnaf Jazeem for a period of ninety days and the same has been

signed by the President of Sri Lanka. Annexed hereto is a copy of the said purported Detention Order MOD/LEG/PTA/63/2020 marked as “**P13**” and pleaded as part and parcel hereof.

31. The Petitioner states,

- (a) Under the Criminal Procedure of Sri Lanka a person when arrested has to be produced before the nearest Magistrate within 24 hours of his arrest;
- (b) The only exception available to this rule is under Section 9(1) of the Prevention of Terrorism Act whereby a person arrested could be detained for ninety days, if the Minister issues a detention order on the detainee.
- (c) The PTA empowers only the Minister to issue such Detention Order. No one else is empowered to make a Detention Order. The PTA does not grant the Minister powers to delegate his powers to any other person as well.
- (d) The purported Detention Order dated 19th May, 2020 MOD/LEG/PTA/63/2020 purported to be signed by the President of Sri Lanka is an invalid Detention Order as the President does not have the powers to sign and issue a Detention Order.
- (e) The Detention Order does not state whether the President is signing the Detention Order in his capacity as the Minister of Defense, as he could not.
- (f) In any case, at the time Ahnaf Jazeem was arrested, there was no Minister of Defense appointed by the President of Sri Lanka as provided for under Article 43(2) of the then Constitution.
- (g) In any case, under the 19th Amendment to the Constitution (which was the amendment in existence at the time the purported Detention Order was signed), the President could not have held the post of the Minister of Defense.
- (h) Therefore, during the period between 02nd March, 2020, when the then Parliament was dissolved and, till the passage of 20th Amendment to the Constitution there could not have been any Detention Orders issued because there was no Minister of Defense.

32. Therefore, the Petitioner states, to date Ahnaf Jazeem has been kept under illegal detention upon purported Detention Orders, without being produced to Court for over ten months.

33. The Petitioner respectfully states,

- (a) In any event, the detention of Ahnaf Jazeem could not have been made under

any detention order during the period from 16th May 2020 to 22nd November 2020, as there was no Minister of Defence to issue detention orders during the period from dissolution of the Parliament to the date of appointment of the new cabinet of ministers after the passage of the 20th Amendment to the Constitution, consequent to which the President of Sri Lanka became the Minister of Defence under Article 44(2) of the Constitution.

(b) Thus, any purported detention order issued during the said period is invalid.

(c) Even thereafter, the continued detention of Ahnaf Jazeem under any detention order is unlawful as there was no lawful arrest made on or after 22nd November 2020.

34. The Petitioner states that, as Ahnaf Jazeem has been kept in the illegal custody of the 3rd Respondent, pursuant to a purported investigation against the Poet, carried out by the 1st, 2nd, 3rd, 4th and 5th Respondents, and in detention for more than seventy two hours under the PTA, which power coming within the purview of the Ministry of the 1st Respondent, the conduct of the 1st to 6th Respondents is a blatant violation of the Petitioner's Fundamental Rights secured under Articles 12(1), 13(1) and 13(2) of the Constitution.
35. It is further stated that detaining a person in illegal custody also amounts to mental torture, degrading and inhumane treatment and, therefore, the conduct of the 1st to 6th Respondents is a violation of Ahnaf Jazeem's Fundamental Rights under Article 11 of the Constitution, which is a non-derogable right.
36. Such unlawful detention also amounts to breach of the presumption of innocence, and therefore the Poet Ahnaf Jazeem's fundamental right under Article 13(5) of the Constitution is infringed.

TORTURE AND DEGRADING & INHUMANE TREATMENT

37. The Petitioner is instructed that when the said Attorneys-at-Law, Sanjaya Wilson Jayasekera and Swasthika Arulingam visited Ahnaf Jazeem at TID's custody, they have been instructed by the Poet as follows:-

- (a) From the date of his arrest for around two weeks Ahnaf Jazeem had been handcuffed to a chair at all times.
- (b) Thereafter, the time period he was handcuffed was reduced. However, for the most part he is kept handcuffed to the chair or both his hands cuffed together.
- (c) Even when sleeping Ahnaf Jazeem's hand is handcuffed to a table. This had caused him severe pain in his arm and Ahnaf Jazeem had complained about this to the Officers under the 3rd Respondent several times, to no avail.
- (d) Ahnaf Jazeem is detained under unhygienic conditions that he has been bitten by a rat on one occasion and also had to suffer from urethral stones, which needed physical rest, which was unavailable.
- (e) Ahnaf Jazeem and three other inmates had been stuffed into a make shift shelter in one corner of the 3rd Respondent's Office Floor and all suffered from a severe rash.
- (f) Ahnaf Jazeem was exposed to the danger of COVID-19 and three times PCR tests were obtained.
- (g) The Petitioner is also instructed that Ahnaf Jazeem was not permitted to speak to or see his family members for a long cumulative period of time, except for several times during the first wave of COVID-19 and even denied access to lawyers for two months after requesting for the same. After the aforesaid visit by said Attorneys-at-Law, the Poet was denied to even call the family over the phone for two weeks.
- (h) The Petitioner is reasonably instructed that in all occasions when Ahnaf Jazeem speaks to his family over the phone, at least one Tamil-speaking TID officer is listening to the conversation, preventing the Poet speaking freely about his conditions of detention and other matters.

38. The aforesaid treatment/conduct by the 3rd Respondent and/or his subordinate officers, while Ahnaf Jazeem was in the custody of the 3rd Respondent, causing Ahnaf Jazeem to suffer pain and health risks amounts to physical and psychological/mental torture and degrading and inhumane treatment, and is therefore a violation of Ahnaf Jazeem's fundamental right guaranteed under Article 11 of the Constitution.
39. The Petitioner is instructed that this degrading and inhumane treatment is continuous, an infringement of his fundamental rights guaranteed under Articles 11, 12(1) and 12(2), and such infringement is continuous with no end or relief in sight.

THE POET FORCED TO MAKE INCRIMINATING ADMISSIONS AGAINST HIMSELF

40. The Petitioner is instructed that during the aforesaid visit, the said Attorneys-at-law have been further instructed as follows:
- (a) Ahnaf Jazeem has also been compelled by the Officers of the 3rd Respondent to give incriminating statements against himself in the Colombo Magistrate Court Case No. B44230/8/20.
 - (b) Ahnaf Jazeem has been specifically compelled to state that he was exposed to extremist ideas while he was learning at Naleemiah Institute of Islamic Studies and thereafter, being a teacher, taught extremism to his students.
 - (c) Ahnaf Jazeem categorically denies making the above statement/admission and the said statement/admission is false. This was specifically confirmed to the said Attorneys-at-law by Ahnaf Jazeem during the said visit.
41. The Petitioner is instructed that on the 20th February 2021, the Poet's father was asked to come to the office of the 3rd Respondent, to 'record a statement' and his father arrived at TID and met the 3rd Respondent. No statement was recorded from the father, but the 3rd Respondent forced the father to compel his son to make the aforesaid incriminating admission. The following discussion took place between Ahnaf Jazeem's father and the 3rd Respondent:

Director: 'It is you who put Ahnaf to Naleemiah to learn. Didn't you?'

Father : 'yes Sir.'

Director: 'It is at and when he was in Naleemiah that your son learnt (Muslim) extremism. More than 15 students have given statements saying that your son taught extremism to them. Your son is a young educated man. He is only 24 years old. He has a bright future. If he admits what I say, I will make him a state witness and release him. Otherwise, he will be in remand for another 10 to 15 years"

Father: 'Please Sir, please release my son now'

Director: Not now. It will take some time. We can release him only if he is made a state witness. Go and meet your son.'

An affidavit of Abdul Gafoor Mohammadhu Jazeem (also Jayeem), father of the Poet Ahnaf Jazeem, enumerating the events that took place on the 20.02.2021 at TID is annexed hereto marked as **P14** and pleaded as part and parcel hereof.

42. The Petitioner is instructed to state and states that the 3rd Respondent and his subordinate officers are trying to compel Ahnaf Jazeem to make the aforesaid statement/admission and, therefore, there is imminent danger of the 3rd Respondent using physical and mental torture against the Poet and also prolonging the detention to psychologically harass the Poet to compel him make the aforesaid statement/admission.
43. The Petitioner states that the above circumstances are such that the Police, led by 3rd Respondent would use and/or have used physical force to intimidate, threaten and torture the Poet Ahnaf Jazeem to obtain an incriminating admission from the Poet and, thus, his fundamental right guaranteed under Article 11 is imminently infringed, and/or the said infringement is continuous.

DUE PROCESS VIOLATED WHILE RECORDING STATEMENT

44. The Petitioner is instructed that during the aforesaid visit by his Attorneys-at-Law, Ahnaf Jazeem also stated that TID recorded one Statement from him (during the total period of 10 months of detention). Two Police Officers (not in the rank of ASP) were present during this recording of the statement. Everything that was said by Ahnaf Jazeem in Tamil was translated into Sinhalese by one officer to another officer of

TID, and the recording was done in Tamil only after the latter dictated in Sinhalese to the recording officer. No opportunity had been given to Ahnaf Jazeem to read and understand the recorded statement before his signature was obtained on the statement.

45. The Petitioner states that by failing to follow the proper legal procedure and adopting procedures not warranted under the law in obtaining statements from Ahnaf Jazeem, the 3rd Respondent and his subordinate officers have infringed his fundamental rights to equality, equal protection under the law, and equal treatment before the law as guaranteed under Article 12(1) and 12(2) of the Constitution.

BREACH OF CLIENT-ATTORNEY CONFIDENTIALITY AND PRIVILEGE OF INFORMATION AND DEPRIVING PROPER LEGAL ACCESS

46. The Petitioner is instructed that, after several written requests to the 3rd Respondent and reminders to his office, and following a letter to the 2nd Respondent made by Attorney-at-Law, Sanjaya Wilson Jayasekera to obtain a consultation with his client Ahnaf Jazeem, permission was finally granted to meet Ahnaf Jazeem on the 8th March, 2021. The self-introduced supervising officer Mr.Gunesekera (IP), initially objected to said Attorney-at-Law accompanying Swasthika Arulingam, Attorney-at-Law, who was supposed to translate the conversation from Tamil to English, and instead offered to provide the assistance of a TID officer to translate the conversation between Ahnaf Jazeem and the lawyers, which was objected to by the said Attorney-at-Law. It was thereafter that both lawyers were permitted to sit and talk to their client.
47. The Petitioner is instructed that while the conversation between the said Attorneys-at-Law and their client Ahnaf Jazeem was limited to only for about 19 minutes, two subordinate Officers of the 3rd Respondent, Mr.Wigneshwaran (PC) and one Mr.Rajitha (SI) were listening and taking notes of the whole conversation had between the said lawyers and their client.
48. The above conversation between Attorneys-At-Law, Sanjaya Wilson Jayasekera and Swasthika Arulingam and their client, Ahnaf Jazeem was also tape-recorded by said officer, Mr. Rajitha (SI), without the knowledge of the said Attorneys-at-Law or Ahnaf Jazeem. This was only known to the said Attorneys-at-Law when a recording device

was spotted in the possession of the said officer and, subsequently, Mr. Rajitha (SI) admitted to have recorded the conversation. The Petitioner pleads that Your Lordships' Court be pleased to direct the 2nd and/or 3rd Respondents to produce the said tape-recording as evidence to authenticate the averments made herein.

49. The Petitioner is instructed that when this information was passed on, with their objections, by said Attorneys-at-Law, to the Supervising Officer Mr. Gunasekera (IP), he told the said lawyers, " *there is nothing to worry about if you have not spoken anything unnecessary and talked only about the case*" (which was originally said in Sinhala).
50. The Petitioner states that the above statement of Mr. Gunasekera (IP) is an indirect threat and amounts to attempting to intimidate the said Attorneys-at-Law who were executing their professional duty.
51. The Petitioner states that denying proper consultation with and access to lawyers for Ahnaf Jazeem is an infringement of the Poet's Fundamental Rights guaranteed under Article 12(1) and Article 13(3) of the Constitution. Therefore, the Officers of the 2nd Respondent had violated the Fundamental Rights of Ahnaf Jazeem of equality before the law, equal protection of the law and fair trial guaranteed under Articles 12(1) and 13(3) of the Constitution.
52. The said violation was immediately reported to the Bar Association of Sri Lanka (BASL) by letter dated 9th March, 2021 and posted on 10th March, 2021.

True copies of the said letter and the postal article is annexed hereto marked as "P15a" and "P15b" and pleaded as part and parcel hereof.

NON-ADVOCACY OF MUSLIM EXTREMISM, VIOLENCE, AND PROMOTER OF PEACE

53. The Petitioner is instructed that the 3rd Respondent and his officers have primarily alleged that the Poet Ahnaf Jazeem has published his literary work 'Navarasam' to advocate or promote (Muslim) extremism or terrorism, which is unfounded and baseless, as corroborated by the translations and affidavits filed herewith.
54. The Petitioner is instructed and aware that the Tamil poetic language used in the

book Navarasam is archaic and harder to understand by a normal lay person and requires advanced knowledge in Tamil language and literature to understand the Poetry therein. Therefore, the translation of Navarasam is a task only academic professionals and writers engaged in literary work can undertake. Such translations have been filed along with this application to support the same, marked herein before as **P3(A)** and **P3(B)**.

55. The Petitioner states that, a patient reading of the poetry book and/or aforesaid professional translations shows that the allegations leveled against Ahnaf Jazeem by Police/TID that he had promoted extremism and/or violence in children or aided and abetted Muslim extremism is baseless and unfounded.
56. For further disclosure of facts, the Petitioner states that Ahnaf Jazeem instructed the said Attorneys-At-Law, Sanjaya Wilson Jayasekera and Swasthika Arulingam as follows, when they visited him on the 8th March, 2021:
- (a) The Office of the 3rd Respondent is alleging that Ahnaf Jazeem had shown 'ISIS' videos to children to promote extremism.
 - (b) It has been instructed to state that this allegation is completely false and that, Ahnaf Jazeem had once, well after Easter Sunday attacks, shown to students an Al Jazeera video containing a footage of Abu Bakr al-Baghdadi, a leader of ISIS, to denounce their violence and to teach the students not to be carried away by his false preaching, which he had taught has nothing to do with Islamic religion.
 - (c) Ahnaf Jazeem also has instructed to state that he has stated about this to the Officers to whom he has given a statement.
 - (d) The said instructions are available in the aforesaid audio-recording, which is in the possession of Mr Rajitha (SI), a subordinate officer under the 3rd Respondent.
57. The Petitioner states that, contrary to the unfounded allegations of the 1st and/or 2nd and/or 3rd and/or 4th and/or 5th and/or 6th. Respondents, all available evidence establish that, Ahnaf Jazeem, both as a socially responsible educator/teacher (of literature) and as a Poet, at all times, has had promoted peace, non-violence and

empathy towards humankind.

VIOLATION OF FREEDOM OF THOUGHT AND CONSCIENCE, FREEDOM OF SPEECH, EXPRESSION AND PUBLICATION

58. The Petitioner is instructed to state and state that the 1st and/or 2nd and/or 3rd and/or 4th and/or 5th and/or 6th Respondents were well aware of the contents of the poetry book Navarasam and, therefore, the said Respondents' conduct in arresting and continuously detaining the Poet on the false allegation that the book advocated/promoted extremism is a blatant violation of the Poet, Ahnaf Jazeem's freedom of thought, conscience and freedom of expression and publication as guaranteed under Articles 10, 14(1)(a) and 14(1)(f) of the Constitution.
59. The Petitioner respectfully and humbly urges that in all the circumstances of this application, and in light of the physical, and psychological harm, loss and damage caused and /or incurred by Ahnaf Jazeem, consequent to the infringement of his fundamental rights, he is entitled to the reliefs sought for in this Petition and is entitled to compensation, which Your Lordships' Court be pleased to grant as prayed.
60. The Petitioner respectfully reserves the right to amend the Petition should such a need transpire, and to furnish such other and further material in proof of and/or relevant to matters set out herein, no sooner any such is received and/or made available to him and/or is instructed by Ahnaf Jazeem or his family. The Petitioner also reserves the right to add such other parties to this application as necessary should involvement of any other persons in the aforesaid violations transpire or become known to the Petitioner.
61. The Petitioner states that the aforesaid actions and/or conduct of the Respondents constitute violation and/or continuing violation of Ahnaf Jazeem's fundamental rights by executive and/or administrative action within the contemplation of Article 126 of the Constitution.
62. The Petitioner states that Ahnaf Jazeem's Attorney-at-Law by his letter dated 18th March 2021, addressed to the Hon. Attorney General sought his intervention to look into the possibilities of immediate release of the Poet.

*A true copy of the said letter dated 18th March 2021 and its postal receipt are annexed hereto marked respectively as **P16(a)** and **P16(b)** and pleaded as part and*

parcel hereof.

63. The Petitioner is instructed that Ahnaf Jazeem's father also lodged a complaint bearing No.HRC/MN/029/2020 on or about 22nd May 2020 with the Human Rights Commission of Sri Lanka (HRCSL) in respect of TID's arrest and detention of his son, and this inquiry is yet pending. Further, by way of letter dated 16th March 2021, written by Ahnaf Jazeem's Attorney-at-Law, sent to the Chairman of HRCSL, the said Commission was complained to about the further infringements, imminent infringements and continuing violations of fundamental rights of the Poet.

*A true copy of the receipt dated 22.05.2020 issued by HRCSL, true copies of the said letter dated 16.03.2021 and its postal receipt are annexed hereto respectively marked as **P17**, **P18(a)** and **P18(b)** and pleaded as part and parcel hereof.*

64. For further revelation of facts, the Petitioner is instructed to state and state that Ahnaf Jazeem's father appealed to His Excellency the President of Sri Lanka for the release of his son and, also requested his son's release from State Minister of Internal Security, Home Affairs and Disaster Management by his letters dated 10th November 2020.

*True copies of the said letters and the postal receipts are annexed hereto respectively marked as **P19(a)**, **P19(b)**, **P19(c)** and **P19(d)** and are pleaded as part and parcel hereof.*

65. The Petitioner or Ahnaf Jazeem, on whose behalf this Application is filed, have not previously invoked the jurisdiction of Your Lordships' Court in respect of this matter.
66. An Affidavit of the Petitioner is appended hereto in support of the averments contained herein.

VIOLATIONS OF THE FUNDAMENTAL RIGHTS OF THE POET AHNAF JAZEEM

67. The Petitioner states that the totality of the facts and circumstances as hereinbefore more fully enumerated, clearly demonstrate that the detainee, Ahnaf Jazeem has been treated in a manner in violation of his Fundamental Rights as guaranteed under Articles 10, 11, 12(1), 12(2), 13(1), 13(2), 13(3), 13(5), 14(1)(a), 14(1)(f) of the Constitution.
68. The Petitioner states that the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents are jointly and severally responsible for the infringement, imminent infringement and the continuing infringement of the fundamental rights of the Poet Ahnaf Jazeem by unlawfully and

arbitrarily arresting, continuously detaining and mistreating of Ahnaf Jazeem as hereinbefore enumerated and, therefore, are jointly and severally liable to compensate for the same.

WHEREFORE the Petitioner respectfully prays that your Lordships' Court be pleased to:

- a) Grant the Petitioner **Leave to Proceed** with this Application in the first instance;
- b) Declare that the actions and/or conduct of the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents and/or the State have resulted in the infringement, imminent infringement and continuous infringement of the fundamental rights of the detainee, Ahnaf Jazeem, under Articles 10, 11, 12(1), 12(2), 13(1), 13(2), 13(3), 13(5), 14(1)(a), 14(1)(f) of the Constitution;
- c) Direct the 2nd and/or the 3rd Respondent(s) to produce the audio-recording recorded on the 8th March, 2021, of the conversation between Attorneys-at-Law, Sanjaya Wilson Jayasekera, Swasthika Arulingam and Ahnaf Jazeem, by Mr. Rajitha (SI) of TID to your Lordships' Court, with a copy of the same to the Petitioner, and adduce the same as evidence in this Application;
- d) Direct Respondents to immediately discharge/release the detainee, Ahnaf Jazeem;
- e) Make appropriate Orders instructing the 6th Respondent to expedite providing his advice to the other Respondents in respect of any case(s) currently pending against Ahnaf Jazeem in any Magistrate court or provide his decision to indict or discharge and release the Poet, Ahnaf Jazeem within a time frame determined by your Lordships' Court; and
- f) Make appropriate interim Order during the pendency of this action or final Order under the powers granted under Article 126(4) of the Constitution and grant bail to Ahnaf Jazeem;
- g) In the alternative, to make appropriate interim Order during the pendency of this action or final Order directing the 6th Respondent to consent to release Ahnaf Jazeem from detention/custody in accordance with Section 7(1) of the Prevention of Terrorism Act;
- h) Make appropriate orders directing the 2nd and 3rd Respondents to allow proper access of lawyers to the detainee Ahnaf Jazeem, with the right to maintain lawyer-client privilege and confidentiality, and without any supervision or surveillance, and without secret audio or video recordings.

- i) Grant compensation to the Poet, Ahnaf Jazeem in a sum of Rupees 100 million or as determined by Your Lordships' Court;
- j) Grant exemplary/punitive costs in the discretion of Your Lordships' Court in view of the circumstances of this case as pleaded above; and
- k) Grant such further and other relief(s) as to Your Lordships' Court shall seem meet.

PETITIONER

ATTORNEY-AT-LAW FOR THE DETAINEE

Settled by:

Ms. Swasthika Arulingam
Mr. Sanjaya Wilson Jayasekera
Mr. Lakshmanan Jeyakumar
Attorneys-at-Law

Mr. A. A. M. Illiyas
Dr. K. Kanag-Isvaran
President's Counsel