



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

H.C.P. (MD) No.801 of 2020

Jeenu @ Jinu

... Petitioner/Detenu

-vs-

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

2.The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... 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 passed in P.D.No.22 of 2020 dated 03.09.2020 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Jeenu @ Jinu, aged about 24 years, S/o Johnson, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner: Mr.N.Pragalathan

For Respondents: Mr.K.Dinesh Babu
Additional Public Prosecutor



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Heard Mr.N.Pragalathan, learned counsel for the petitioner and Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on records.

2.This detention order of the second respondent dated 03.09.2020 passed in P.D.No.22 of 2020 has been challenged by the detenu himself, wherein he has been branded as "Drug Offender" as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.

3.The learned counsel for the petitioner would argue that though the detention order impugned in this habeas corpus petition has been challenged on various grounds, he confines his argument with regard to the non-application of mind on the part of the detaining authority while arriving at subjective satisfaction.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order. According to the learned Additional Public Prosecutor, there is no infirmity or irregularity in the order of detention passed by the second respondent. It is also submitted that the representation of the petitioner was considered and rejected by the authorities within a reasonable time. Hence, he prayed for dismissal of the Habeas Corpus Petition.

5.We have heard the rival submissions and perused the materials available on records.

6.Perusal of the impugned detention order, dated 03.09.2020, would reveal that the detenu in this case has involved in one adverse case in Crime No.112/2019 on the file of the Karungal Police Station for the offences punishable under Sections 394 and 511 IPC and another case has been registered against him in Crime No.314/2020 by the same police for his involvement for the offences under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985. It is the case of the prosecution that both the accused were found in possession of 2.5 gram Ganja. In para 5, while reaching subjective satisfaction, the detaining authority has stated that as if the accused and his close associate are the notorious ganja sellers in and around Karungal area which shows lack of application of mind on the part of the detaining authority while reaching the subjective satisfaction. Therefore, we find force in the submission of the



learned counsel for the petitioner. Hence, on this sole ground, the impugned detention order is liable to be set aside.

7. In fine, the order of detention passed by the second respondent, in P.D.No.22 of 2020 dated 03.09.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Jeenu @ Jinu, son of Johnson, aged about 24 years, now detained at Central Prison, Palayamkottai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Skn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.



4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George,
Chennai-9.

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

H.C.P. (MD) No.801 of 2020

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DKS (CO)

NR (11/02/2021) 4P : 6C