



O R D E R

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

Heard Mr.S.Muniyandi 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 habeas corpus petition has been filed by the wife of the detenu namely, Satheesh, son of Raja, aged about 37 years, who has been branded as "Drug Offender" by the second respondent in Detention Order No.54/2020 dated 01.10.2020, as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.

3.The learned counsel for the petitioner would state that the impugned detention order is liable to be set aside on the sole ground of 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, while reiterating the counter filed by the second respondent, 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. 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 01.10.2020, would reveal that the detenu in this case has involved in Crime No.2022/2020 for the offences punishable under Section 8(c) r/w 20 (b)(ii)(B) of NDPS Act and the case was registered by the Chinnamanur Police Station. But in para 4 of the detention order, it has been stated that the detenu committed crimes continuously and also acted in a manner prejudicial to the maintenance of public order and public health. When the detenu is involved in only one criminal case under the provision of NDPS Act, referring him as a habitual offender would show the non-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 Detention Order No.54/2020 dated 01.10.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Satheesh, son of Raja, aged about 37 years, now detained at Central Prison, Madurai is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(AE)

// 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Theni District, Collector's Office, Theni.
- 3.The Superintendent of Prison,
Central Prison, Madurai.
- 4.The Inspector of Police,
Chinnamanur Police Station,
Theni District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.976 of 2020
27.01.2021

ARK(CO)

TR(11.02.2021) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>