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H.C.P.(MD) No.940 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and

THE HONOURABLE MR.JUSTICE G.ILANGOVA

H.C.P. (MD) No.940 of 2020

N.Ranjeetha

... Petitioner/Wife of the Detenue

-VS-

1.The State of Tamil Nadu

Rep.by its Additional Chief Secretary to Government
Home, Prohibition and Excise (XIV) Department
Fort St.George, Chennai-600 009

2.The District Magistrate cum District Collector
Theni District, Theni

3.The Superintendent of Central Prison
Central Prison, Madurai

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the records of the detention order of the second respondent in proceedings in Detention Order No.56/2020, dated 08.10.2020 and quash the same and consequently direct the respondents to produce the detenue namely Mr.Naveenkumar, son of Vairavan, before this Court, who is detained at Central Prison, Madurai and set him at liberty.

For Petitioner : Mr.M.Kannan

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

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the wife of the detenu, namely, Naveenkumar, son of Vairavan, aged 28 years, challenging the detention order No.56/2020, dated 08.10.2020, passed by the second respondent, branding him as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.



2. Mr.M.Kannan, learned counsel appearing for the petitioner, would argue that though several grounds have been raised to assail the impugned detention order, he is entitled to succeed on the ground of lack of application of mind on the part of the Detaining Authority while arriving at the subjective satisfaction. According to the learned counsel, in the impugned detention order, the Detaining Authority has not referred any adverse cases against the detenu, but in Paragraph No.4 of the detention order, it has been mentioned that the detenu committed crimes continuously, which shows lack of application of mind on the part of the Detaining Authority while reaching the subjective satisfaction.

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, submitted that the detenu is involved in NDPS Act case for possession of 80 Kgs. Ganja. It is further contended that though in the detention order adverse cases have not been mentioned, but the detenu is involved in four adverse cases and hence, he has been detained under Tamil Nadu Act 14 of 1982. According to the learned Additional Public Prosecutor, there is no illegality or infirmity in the detention order and prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the instant case, the detention order has been clamped on the detenu for his involvement in Veerapandi Police Station Crime No.1363 of 2020. It is pertinent to note that no adverse has been referred in the impugned detention order. However, in Paragraph 4 of the impugned detention order, it has been mentioned that the detenu committed crimes continuously and also acted in a manner prejudicial to the maintenance of public order and public health. As rightly pointed out by the learned counsel for the petitioner, in the grounds of detention order, the adverse cases said to have been registered against the detenu have not been mentioned, but the Detaining Authority, while reaching subjective satisfaction has stated the detenu committed crimes continuously, which in our considered view shows non-application of mind on the part of the Detaining Authority. Therefore, we find force in the contention of the learned counsel appearing for the petitioner and on this ground the detention order is liable to be set aside.

6. In fine, the Habeas Corpus Petition is allowed. The detention order No.56/2020, dated 08.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Naveenkumar, son of Vairavan, aged 28 years, who is now detained at



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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(CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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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 (XIV) Department,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.
2. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 3.The District Magistrate-cum-District Collector,
Theni District, Theni.
- 4.The Superintendent of Central Prison,
Central Prison, Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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