

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.2703 of 2019

Chitra (M/A 34 years)
W/o.Vijayakumar,
No.327 B, Anna Nagar,
Bommikuppam,
Tirupatur Taluk,
Vellore District.

... Petitioner

Vs

1.State of Tamil Nadu
Rep. by the Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai 600 009.

2.The District Collector and District Magistrate,
Vellore District,
Vellore – 9.

3.Union of India,

Represented by its Secretary,
Ministry of Social Justice and Empowerment,
New Delhi.

4.The Narcotics Contral Bureau,
Chennai Zonal Unit,
TNHB Colony, Annanur,
Ambattur, Chennai – 600 053.

5.The Director General of Police,
State of Tamil Nadu, Mylapore, Chennai.

... Respondents

*(R3 to R5 suo motu impleaded vide order dated 14.07.2020
made in HCP 2703 of 2019)*

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Habeas Corpus directing the respondents to produce the petitioner's husband by name detenue Vijayakumar son of Madhu aged 35 years before this Court now confined in Central Prison, Salem set him at liberty and to call for the records pertaining to the order of detention passed in C3/D.O.No.127/2019 dated 18.11.2019 passed by the 2nd respondent and set aside the same.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was delivered by **N.KIRUBAKARAN, J**)

[Through video-conferencing]

“The drink and the drug evil is in many respects infinitely worse than the evil caused by malaria and the like; for, whilst the latter only injure the body, the former saps both body and mind.”

- M.K.Gandhi, Young India 3-3-1927

The students are the future citizens of the country and unless they are properly groomed, the future of our nation will not be bright. We have a bad experience in the State of Punjab, where the youngsters and students are mostly addicted to drugs and the same situation should not be allowed to spread to other States. It is known that Punjab is the transit point on the drug route and the State has become a major consumer base.

2.In December, 2019 in the suo motu writ petition taken by the Hon'ble Kerala High Court based on the letter written by a retired IPS officer Mr.N.Ramachandran highlighting the increase in drug abuse cases and related crimes, the Kerala police filed an affidavit stating that the educational institutions in Kerala have become a hot bed of drug peddlers, as 223 cases have been registered under Narcotics Act, till October 31, 2019, in connection with seizure of drugs from various schools and college premises and there has been steep rise in the detection of narcotic substances and tobacco products from the premises of educational institutions. There is more alarming increase in demand for intoxicating substances among the youth and children in the State.

3.The All India Institute of Medical Sciences, New Delhi conducted a first comprehensive study in the year 2015 to estimate the magnitude of drug addiction in Punjab and the report concluded that there were more than two lakh addicts in the State. It is also reported in the newspapers that there are about 3.6 lakhs registered drug addicts in the State who are on alternate drug therapy and they have to visit the de-addiction centres daily to get the medicine. It is also felt to have a exclusive de-addiction centre for women, as the number of women getting addicted is increasing.

4.A latest UN report on drug use revealed 30% increase in the consumption of narcotics in the last decade with some 35 million people worldwide suffering from drug disorders. The report estimated that of the 271 million people that used any drug, 35 million suffer from the drug use disorder. The death toll also increased and about 5,85,000 people dying in 2017 from drug use.

5.A survey was conducted recently on consumption of substances in India by Social Justice Empowerment ministry in collaboration with AIIMS gave key finding that more than 3.1 Crore Indians (2.8%) are reported to be using cannabis products, bhang, ganja, charas, heroin and opium. However, only one in 20 drug addicts gets treatment at hospital. It is also found that heroin is most commonly used substance followed by pharmaceutical opioids, followed by opium. Less than 1% or 1.18 Crore people use sedative, non-medical or non-prescription use. The problem of drug addiction of children is more prevalent in Uttar Pradesh, Madhya Pradesh, Delhi and Haryana.

6.It is a fact that many youngsters especially students are getting addicted due to availability of narcotic drugs, psychotropic substances easily near the schools, colleges and other public places and many youngsters are getting addicted resulting in commission of many heinous crimes, apart from

youngsters being made as drug peddlers/offenders. It is also stated that the youngsters are lured by the mercenaries and they are used as tools to commit murders, robberies and dacoities.

7. When such is the position about drug abuse in India, this present petition also relates to drug peddling in which the wife of the detenu has filed the present petition challenging the detention order dated 18.11.2019 passed against her husband, branding him as “Drug Offender” for having smuggled 32 kgs of Ganja from Vishakapattinam in his vehicle.

8. Heard Mr.M.Rajkumar, learned counsel for the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor for the respondents.

9. It is seen from the records that the petitioner's Husband and the other accused were found to be in possession of 32 Kgs of Ganja, which is a commercial quantity, when their Eicher vehicle was subjected to checking by the second respondent on 19.10.2019 at 12.00 Noon at Ambur and the accused were arrested on 19.10.2019. Thereafter, they were detained under Act 14 of 1982.

10. The learned counsel for the petitioner would submit that there is no likelihood of the detenu coming out on bail, as no bail petition has been filed by the detenu and therefore, the authorities are wrong in relying upon the allegedly

similar case in Crime No.64 of 2017 under Section 8(c) r/w 20(b)(ii)(C) and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 in which bail was granted. However, the learned Additional Public Prosecutor would vehemently oppose the contention raised by the learned counsel appearing on behalf of the petitioner and he would submit that each case has to be analyzed based on its own facts and therefore, the contention made by the learned counsel for the petitioner is rejected.

11.However, it is evident from the records that the representation was sent on 16.12.2019 and it was rejected only on 04.02.2020 and there is 25 days delay in considering the representation given on behalf of the detenu, which vitiates the detention order as per the decision of the Hon'ble Apex Court reported in *1980 (2) SCC 321, Tara Chand v. State of Rajasthan and others*. Though the prayer sought for by the petitioner is granted, the matter is kept pending for dealing with the larger issue of **“drug menace”**.

12.The authorities should be careful enough in considering the representation without any delay, especially in the case of “Drug Offenders” as that of the detenu. As stated in the detention order, the seized contraband is capable of spoiling the lives of hundreds of youngsters and adults who start consuming it without knowing the evil consequences and they become

vulnerable of committing offences, especially Crime Against Women and Children. In the detention order, it has been stated that the Ganja detected in samples were the natural ingredients of the plant Cannabis, regular intake of ganja (cannabis) causes thirst, nausea, restlessness, tremors, decreased concentration and attention span, disorientation, fear of dying, impaired judgment, failure to meet responsibilities, loss of appetite, weakness, red eyes, vacant look, impotence, moral and mental deterioration and rarely may become insane, and may develop hallucinations, delusions and paranoid psychosis, impulse to commit crime like murder and suicidal tendencies are also seen. They may become run amock, if the abuse is continued for a considerable period of time, it may also lead to behavioral problems, crime and even mental derangement. When that is the effect or evil consequences of consuming the said drug and many people, especially the students and youngsters are likely to be the consumers as evident from the newspaper reports.

13. Therefore, there is no point in passing the detention order and it should be sustainable, especially in respect of the drug offenders. Atleast in the future, all the stake holders involved in the process, should deal with the representations given on behalf of the detenu, without any delay, so that no loophole is available for the detenu to take advantage before this Court.

14.This Court also dealt with many detention orders passed against the youngsters terming them as “Drug offenders” under Act 14 of 1982, who are lured into drug peddling due to sociological and economic conditions. Hence, earnest efforts have to be taken by all, including this Court to address this problem. This Court cannot mechanically decide the issue confined to the HCP alone and it has to see the root cause for the case, namely drug peddling and abuse. When this Court has taken care to safeguard the fundamental right of the drug peddler who has been detained under Goondas Act, this Court has to necessarily take up the crux of the matter in drug peddling and abuse to safeguard the fundamental rights of other citizens. Otherwise, this Court as custodian of fundamental rights and human rights would be shirking its responsibility to safeguard the interest of the general public. Therefore, this Court suo motu takes up this issue and impleads

“Union of India, Represented by its Secretary, Ministry of Social Justice and Empowerment, New Delhi.”

“The Narcotics Control Bureau, Chennai Zonal Unit, TNHB Colony, Annanur, Ambattur, Chennai – 600 053.”

“The Director General of Police, State of Tamil Nadu, Mylapore, Chennai.”

as respondents 3 to 5.

Mr.G.Karthikeyan, learned Assistant Solicitor General of India takes notice on behalf of the newly impleaded respondents 3 and 4.

Mr.R.Prathap Kumar, learned Additional Public Prosecutor takes notice on behalf of the newly impleaded 5th respondent.

The newly impleaded respondent is directed to answer the following queries:

1. How many cases under Narcotics Act have been filed for the past 10 years in India and Tamil Nadu?
2. What is the quantity of the seized various types of narcotic drugs and psychotropic substances for the past 10 years? [Drug category wise and year wise details]
3. What are all the causes for drug smuggling apart from making illegal profit?
4. Whether unemployment is the main reason for drug peddling?
5. Whether the youngsters are involved in/lured into drug peddling/smuggling?
6. Whether India is used as a “Hub”to smuggle the drug in and out of the Country?

7. How the seized drugs and narcotic substances are disposed of scientifically?
8. What is the quantity of each variety of drugs kept as on date without disposal by various authorities throughout India and in Tamil Nadu and by which time it will be disposed of completely?
9. Whether the foreign drug mafias apart from local mafias are involved in smuggling of drugs and narcotic substances?
10. Is it a fact that the seized Narcotic substances are not properly disposed and again circulated to the drug peddlers with the connivance of some of the erring officials?
11. Is it a fact that illegal money made in drug peddling is used for funding anti-national activities and terrorists?
12. What are all the places where the narcotic substances like Ganja plantations are grown?
13. Why not the authorities use drones to find out the narcotic plantations and destroy them, even in thick forest?
14. How many drug addicts have been found in India and in Tamil Nadu and whether the number of drugs addicts are increasing year by year?

15. Whether de-addiction centres have been established by the Government to support the drug addicts to help them out of addiction?
16. What are all the other steps taken by the Central Government as well as the State Government to eradicate drug smuggling?
17. What are all the steps taken to prevent the students and youngsters from getting addicted to drugs, as narcotic drugs and psychotropic substances are said to be easily available near Schools, Colleges and public places as revealed in media and various studies?
18. Whether narcotic wing are raiding the shops and commercial establishments located around the educational institutions periodically, to prevent the youngsters from getting access to narcotic substances, as they are the point of drug supply?
19. What would be approximate value of drugs being transacted in India?
[Give the details for the past 10 years].
20. How many detention orders have been passed against the drug offenders for the past 10 years? [year wise details]
21. How many cases have been filed before this Court challenging such detention orders for the past 10 years? [year wise details]

- 22.How many such cases have been quashed by Courts? [year wise details]
- 23.What are the remedial or corrective measures taken by the Government, based on the earlier orders passed by this Court, to ensure that the detention orders are fool proof?
- 24.Why not the State Government establish a separate section in the State Secretariat to deal with the representation given by the “Drug Offenders” immediately, in order to prevent them from being released on the ground of delay in considering the representation?
- 25.Why not the Government rope in celebrities for the purpose of “campaign against drugs” in order to sensitize the people, especially the youngsters about the evil consequences of drug abuse?

For filing response, call the matter on 28.07.2020

(N.K.K.,J) (V.M.V.,J)

14.07.2020

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To

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6.The Public Prosecutor
High Court of Madras.

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