



WEB COPY



HCP.No.1559 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

H.C.P.No.1559 of 2024

Arivazhagan

...

Petitioner/
Husband of the Detenue

Vs

- 1 The State of Tamil Nadu,
represented by Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.
- 2 The District Collector and District Magistrate,
Mayiladuthurai District, Mayiladuthurai.
- 3 The Superintendent of Police
Mayiladuthurai District, Mayiladuthurai.
- 4 The Superintendent of Prison
Special Prison For Women,
Thiruchirappalli.
- 5 The Inspector Of Police
PEW Sirkazhi Police Station,
Mayiladuthurai District.

...

Respondents

PRAYER: This Habeas Corpus Petition has been filed under Article 226 of the



HCP.No.1559 of 2024

Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the detention order dated 14.05.2024 passed by the second respondent in his proceedings No.C.O.C.No.21/2024 and quash the same and direct the respondents herein to produce the petitioner's wife namely Kumuthavalli wife of Arivazhagan aged about 39 years who is presently under going detention in the Special Prison for Women, Thiruchirappalli as bootlegger before this Hon'ble Court and set her at liberty.

For Petitioner : Mr.M.Vinoth

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court is made by *S.M.SUBRAMANIAM, J.*)

The order of detention passed by the second respondent/The District Collector and District Magistrate, Mayiladuthurai, in proceedings No.C.O.C.No.21/2024 dated 14.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The learned counsel for the petitioner would submit that in respect of the similar cases, bail was granted to the similar accused by the learned Principal District and Sessions Judge, Nagapattinam.

3.Those similar cases were considered by the learned Principal Sessions



HCP.No.1559 of 2024

Judge on the ground that there was no bad antecedent and there was no similar previous cases. Further, in the present case, the detenue has three previous cases.

4.We are of the considered opinion that all the three previous cases are relating to Prohibition Act and such offences would be insufficient for the purpose of invoking Act 14 of 1982. The preventive detention laws ought to be applied only in an exemplary cases. The detaining authority conferred an opinion that there are likelihood of breach of public order. The power cannot be conferred in a routine Manner so as to detain a person under Act 14 of 1982. The opinion formed by the detaining authority that the detenue is likely to be relased on bail is incorrect since the detenue has already been released in three previous cases.

5.Accordingly, this Habeas Corpus Petition is allowed.

[S.M.S., J.] [V.S.G., J.]
16.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
mrp

To

Page 3 of 5



HCP.No.1559 of 2024

- 1 The State of Tamil Nadu,
represented by Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.
- 2 The District Collector and District Magistrate,
Mayiladuthurai District, Mayiladuthurai.
- 3 The Superintendent of Police
Mayiladuthurai District, Mayiladuthurai.
- 4 The Superintendent of Prison
Special Prison For Women,
Thiruchirappalli.
- 5 The Inspector Of Police
PEW Sirkazhi Police Station,
Mayiladuthurai District.
- 6 The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP.No.1559 of 2024

S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

mrp

H.C.P.No.1559 of 2024

16.08.2024