



WEB COPY

HCP.No.1716 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.1716 of 2024

R.Tamilarasi

... Petitioner/mother of the detenue

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,
Chengalpattu District, Chengalpattu.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Superintendent of Police,
Chengalpattu, Chengalpattu District.
- 5.The Inspector of Police,
Mamalapuram Police Station,
Mamalapuram, Chengalpattu District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records leading to the detention of the petitioner namely Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam Hindu aged about 40 years vide detention order dated 11.07.2024, on the file of the 2nd



HCP.No.1716 of 2024

respondent herein made in the proceedings in CPT No.13 of 2024 quash the same and consequently direct the respondents herein to produce the body and person of the detenue before this Court and thereafter set him at liberty from Central Prison Puzhal.

For Petitioner : Mr.R.Thamaraiselvan
for Mr.T.Mahavishnu

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

ORDER

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

The order of detention passed by the 2nd respondent in proceedings CPT No.13 of 2024, dated 11.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. In the impugned detention order, one adverse case has been relied upon by the detaining authority registered by Annamalai Nagar Police Station in Crime No.243 of 2014 under Sections 147, 148, 324, 307, 302, 120(b) IPC r/w 3 TN Property (Prevention of Damage & Loss) Act, 3 & 4 of Explosive Substances Act 1908 and 3(1)(r), 3(1)(s), 3(2)(v), 3(2)(va) TN SC & ST (Prevention of Atrocities) Act 1989 and ordinance 2014 r/w 149 IPC.



HCP.No.1716 of 2024

3. The ground case was registered on 28.06.2024 and the police party while conducting routine check, stopped the car, in which the detainee travelled.

The police party found that the detainee is a person facing several criminal cases and after conducting thorough search, a fake revolver loaded with bullets were recovered. Accordingly, the case was registered by Mamallapuram Police Station in Crime No.334 of 2024 under Sections 294(b), 353, 307, 506(ii) IPC r/w 25(1-a), of Arms Act, 1959. It is stated that the absconding accused Mr.Sathiyaraj @ Seerkazhi Sathiya, S/o.Rajangam, had attacked the police personnel and gun firing was made against him by the police and the detainee suffered grievous bullet injury on his left leg. The accused was admitted at Stanley Government Hospital for immediate treatment. Pursuant to the orders of this Court in W.P.No.18114 of 2024 dated 02.07.2024, the accused was referred to private Apollo Speciality Hospital, Chennai as ICU in-patient for further treatment. Even now the detainee is under treatment in Apollo Hospital.

4. The learned Additional Public Prosecutor appearing on behalf of the respondents would oppose by stating that nearly 24 criminal cases were registered against the detainee and the some of the cases ended with the order of acquittal, some of the cases are disposed and other cases are pending. Therefore, the detaining authority has every reasons to issue the detention order, as there is



HCP.No.1716 of 2024

an apprehension regarding causing of breach of public order. The counter affidavit filed by the 2nd respondent would also reveal that other criminal cases are pending.

5. This Court is of the considered opinion that likelihood of causing breach of public order should be subjectively satisfied to the detaining authority and there must be some material to establish the element of breach of public order. The detaining authority is not expected to invoke Act 14 of 1982 in a routine manner since preventive detention law is not only colonial but deprives the personal liberty of a person, which is a fundamental right enunciated under the Constitution of India.

6. Mere presumption regarding breach of public order would be insufficient. The presumption must be based on materials and to the subjective satisfaction of the detaining authority. As far as the present case is concerned, the criminal case relied on in the impugned detention order was registered in Crime No.243 of 2014. Therefore, the said relied on case has no close proximity with the detention order or the ground case.

7. The learned counsel for the petitioner would submit that though the



HCP.No.1716 of 2024

detenue had involved in some criminal cases on previous occasions, for the past about ten years, he has not involved in any crime and presently he is looking after his family and maintaining good conduct.

8. Perusal of the ground case would reveal that the detenue has been identified during routine vehicle check in the highway. Police recovered fake revolver loaded with bullets and the ground case further reveals that the detenue attacked the police party, who in-turn fired and the detenue, who sustained bullet injuries. Therefore, the said case can be dealt with under the law of the land. The detenue sustained grievous bullet injury and undergoing treatment in Apollo Hospital. The learned counsel for the petitioner would submit that he is yet to be discharged from the hospital.

9. With reference to the earlier criminal case registered against the detenue, which is stated in the counter affidavit, most of the cases are very old cases registered in the year 2002, 2005, 2008, 2009, 2010, 2012, 2013, 2014, 2017, 2018. After the year 2018, there is no criminal case against the detenue, except two cases which is registered by Mamallapuram Police Station and Chengalpattu Taluk Police Station.



10. The detenu Mr.Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam himself filed a sworn affidavit before this Court and submitted that he is withdrawing Para Nos.3 and 5 of the affidavit and the learned counsel for the petitioner made an endorsement to that effect in the Court record. The other relevant portion of the sworn affidavit reads as under,

“ ...

4.I submit that thereafter I (Sathiyaraj@ Seerkazhi Sathya Hindu aged about 40 years) was detained under the Tamil Nadu Act 14 of 1982 as a "GOONDA", as described Under Section 2 of Section 3 of the Act. The detention order is dated 11.07.2024 on the file of the 2nd respondent herein made in his proceedings in CPT.NO. 13 of 2024 dated 11.07.2024.

6.I submit that in the years 2013 I was married to one Aswini and out of the wedlock I have two children's girl child S.Asthasri at the age of 10 years studying 5th standard and boy S.Ruthreswaran at the age of 5 years studying UKG after marriage I have not involved in Criminal activities after marriage iam doing agriculture in my native and working has an acting driver and also doing real-estate on commission basis for the welfare of my family and my children's and my brothers are residing in Sirkali and doing agriculture and business in sirkali and my



WEB COPY



HCP.No.1716 of 2024

mother and brothers are also helping us.

7. I submit that I undertake that in future I will not indulge in any criminal activities and in future also I will do agriculture in my native and work has an acting driver and also do some real-estate on commission basis.”

11. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings CPT No.13 of 2024, dated 11.07.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam aged about 40 years, now confined in Central Prison, Puzhal is directed to be set at liberty forthwith, unless he is required in connection with any other case and on further conditions that,

(i) The detainee Mr.Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam must appear before the learned Judicial Magistrate cum District Munsif, Thirukazhukundram, Chengalpet District everyday at 10.30 a.m, from the next day of his discharge from Apollo Hospital, Chennai. During Court Holidays including Saturdays and Sundays, the detainee Mr.Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam is directed to appear before Thirukazhukundram Police Station, Chengalpattu District at 10.30 a.m.



HCP.No.1716 of 2024

WEB COPY

(ii) The detainee Mr.Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam shall not leave the territorial jurisdiction of Thirukazhukundram Police Station, Chengalpattu District without providing prior information to the Inspector of Police, Thirukazhukundram Police Station, Chengalpattu District.

(iii) The Police Authorities/Department is directed to conduct surveillance of the conduct of the detainee with reference to the sworn affidavit filed by him before this Court and generally about his conduct in the society. In the event of any violation of the sworn affidavit filed or his involvement in any crime is identified, the Police Authorities shall initiate appropriate actions and if required invoke Act 14 of 1982.

(iv) The detainee Mr.Sathiyaraj @ Seerkazhi Sathya, S/o.Rajangam is directed to comply the above conditions for a period of two months from the date of discharge from the Apollo Hospital, Chennai.

(v) The respondents 4 and 5 are directed to file a report before this Bench.



HCP.No.1716 of 2024

[S.M.S., J.]

[N.S., J.]

20.09.2024

WEB COPY

Index: Yes

Internet: Yes

Neutral Citation: Yes/No

gd



WEB COPY



HCP.No.1716 of 2024

S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.

gd

To

- 1.The Secretary,
To Government, Home, Prohibition
And Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Chengalpattu District, Chengalpattu.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Superintendent of Police,
Chengalpattu, Chengalpattu District.
- 5.The Inspector of Police,
Mamalapuram Police Station,
Mamalapuram, Chengalpattu District.
- 6.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 7.The Public Prosecutor,
Madras High Court.

H.C.P.No.1716 of 2024

20.09.2024