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HCP.No.1874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**  
**AND**  
**THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

H.C.P.No.1874 of 2024

M.Sandhiya

... Petitioner

Vs.

1. The Additional Chief Secretary to Government,  
Home Department, Prohibition and Excise Department,  
Fort St.George, Chennai-600 009.
2. The District Collector and District Magistrate,  
Office of the District Collector,  
Tirupathur, Tirupathur District.
3. The Superintendent,  
Central Prison, Vellore.
4. The Superintendent of Police,  
Tirupathur, Tirupathur District.
5. The Inspector of Police,  
Tirupathur PEW Police Station,  
Tirupathur, Tirupathur District.

.... Respondents

**PRAYER:** Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, call for the records of the impugned detention order passed by



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the 2<sup>nd</sup> respondent vide C3/D.O.No.29/2024 dated 18.06.2024 against the petitioner's husband Madhu S/o.Kali aged about 30 years who is confined at Central Prison, Vellore and quash the same and further direct the respondents to produce the detainee before this Court and set free at liberty.

For Petitioner : Mr.B.Balavijayan  
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 second respondent herein in C3/D.O.No.29/2024 dated 18.06.2024, is sought to be quashed in the present Habeas Corpus Petition.

2.All the adverse cases relied on by the detaining authority are registered under the Tamil Nadu Prohibition Act. Pertinently, these criminal cases are registered by Tirupathur Prohibition Enforcement Wing. First adverse case was registered in the year 2020 and the other cases are registered during the years 2023 & 2024. Though it is possible for the Prohibition Enforcement Wing to trace out all illicit arracks and the places utilised for manufacturing, no effective actions are taken by the police to curb the menace of the illicit arracks in the local areas. It



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cannot be out of sight of the local police and therefore, the detaining authority and the District Superintendent of Police have to look into these issues and initiate appropriate actions against the police authorities, who have not initiated preventive action against such prohibition related offences.

3. Efficient public administration is a constitutional mandate. While Prohibition Enforcement Wing has been constituted and police personnel are deployed, it shocks the conscience of this Court as to why this Special Wing is unable to nab the habitual offenders, who manufacture illicit arrack etc. It is commonly understood that the Special Wing to curb these offences are not functioning efficiently. Moreso, these offenders are committing the said offences in a frequent manner and therefore, we are of the considered opinion that effective policing by the Prohibition Enforcement Wing would be of greater assistance for the purpose of preventing the crime relating to prohibition. The reasons stated in the impugned detention order would be insufficient to draw an inference that there is likelihood of causing breach of public order. If at all any such inference can be drawn, the Special Wing must also be held responsible for such inferences. Therefore, the detaining authority in the present case with the assistance of the



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District Superintendent of Police and the Special Wing police officials have to initiate action in an effective manner. The menace of illicit arrack are encouraged with the aid of other persons in the local area. Therefore, the root cause of this menace is to be identified and to be eradicated in a consistent and effective manner by the detaining authority along with the Special Wing police officials deployed in the prohibition wing.

4.The learned Additional Public Prosecutor would submit that the detaining authority assigned the reason by stating that normal course of law has also not struck the desired restraintment on the activities of the detenu whose activities are prejudicial to the maintenance of the public order and public. Though such a statement has been recorded for invoking Act 14 of 1982, this Court could find that all the adverse cases are registered by the same Prohibition Wing officials and therefore, one has to draw an inference that the effective prevention of such illegal activities are not undertaken by the Special Wing. Suspicion arises in the mind of this Court whether these police officials are also closing their eyes despite their knowledge about such illegal activities and finally, the detaining authority is invoking preventive detention law merely based on the number of cases registered



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against this offenders. Number of cases registered alone cannot be taken into consideration for invoking Act 14 of 1982. The possibility of prevention of such crimes by the Special Prohibition Wing officials are also to be equally considered by the Courts. Effective policing by the Prohibition Wing is of paramount importance since such illegal activities are going on in the same area in a repeated manner. Surveillance by the Special Wing is of paramount importance. By conducting frequent surveillance, such offences can be prevented effectively. Instead of conducting surveillance and preventing such crimes, they are registering some cases and when the number of cases are increasing, they are applying preventive detention law and such an approach of the authorities cannot be encouraged by the Courts.

5.Preventive detention cannot be a method for the purpose of preventing the crime unless the root causes are identified and actions are initiated. Invocation of preventive detention law cannot be a routine affair. The authorities have to apply their mind and trace out the root causes for such offence and a pragmatic approach is to be adopted for the purpose of protecting the livelihood of these people, who indulge in such illegal activities. In the present case, the ground relied on for



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invoking Act 14 of 1982 is not convincing.

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6. Consequently, the impugned order of detention in C3/D.O.No.29/2024 dated 18.06.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detainee, namely, Madhu S/o.Kali aged about 30 years, detained in Central Prison, Vellore, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[R.S.V., J.]

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



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