



WEB COPY



HCP.No.2108 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2108 of 2024

A.Chitra

... Petitioner

Vs.

1. The State of Tamil Nadu represented by
The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector-cum-District Magistrate,
Nagapattinam District,
Nagapattinam.
3. The Superintendent of Police,
Nagapattinam.
4. The Superintendent,
Central Prison,
Thiruchirapalli.



HCP.No.2108 of 2024

WEB COPY

5. The Inspector of Police,
Kilvelur Police Station,
Nagapattinam 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 connected with the impugned order of detention passed by the 2nd respondent in C.O.C.No.18/2024 dated 07.08.2024 and quash the same as illegal and consequently direct the respondents to produce the detenue namely, Thiru.Dharanikumar, male aged 31/2024, son of Arivalagan, Periyakoodakudi, Thirukannankudi Post, Kilvelur Police Station limit, Kilvelur Taluk, Nagapattinam District detained in the Central Prison, Thiruchirapalli before this Court and set him at liberty.

For Petitioner	: Mr.C.R.Gokulvisvas
For Respondents	: Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 07.08.2024 is sought to be quashed in the present habeas corpus petition.



HCP.No.2108 of 2024

2. The learned Counsel for the petitioner would submit that the detainee's health condition is serious and both his kidneys are not functioning and he is admitted in the hospital and undergoing treatment.

3. The learned Additional Public Prosecutor appearing on behalf of the respondents has not disputed the said fact. Further, he brought to the notice of this Court that the detainee is an habitual offender involved in prohibition cases. Many number of cases have been registered against him. Therefore, it is a just case, where the Authority has passed the detention order.

4. Though the objections raised by the learned Additional Public Prosecutor deserves to be considered, we are of the opinion that the detainee's health condition is in bad condition and there is no possibility of commission of similar crime in the near future. Taking note of the detainee's health condition, we are inclined to interfere with the detention order.

5. Regarding the prohibition relating offences, we are surprised that the Special Police Wing *viz.*, Prohibition Enforcement Wing are not effectively preventing such commission of offences. Prohibition Wing are trained in order to prohibit the illicit arrack and related activities but in spite



HCP.No.2108 of 2024

of the constitution of Special Wing, the offences are repeatedly committed, which raises serious suspicion in the mind of the Court.

6. The respective Superintendent of Police and the Director General of Police must ensure that the Prohibition Enforcement Wing effectively prevent the prohibition related cases. In the event of failure, all appropriate actions are to be initiated for lapses, dereliction of duty and negligence on the part of the officials attached to Prohibition Wing.

7. There is a reasonable apprehension that for the sake of registration of cases, few offenders are repeatedly booked and such practices if identified, the higher Authorities have to initiate action against the officials, who all are registering such false cases against the individuals.

8. In the present case, we found that the detainee is aged about 31 years and both his kidneys are not functioning. At the age of 31 years, the detainee is facing more than 25 prohibition related cases, which raises a serious doubt whether all such cases are genuinely registered or not. The functioning of the Prohibition Enforcement Wing is to be reviewed by the Director General of Police and appropriate directions are to be issued to ensure that effective prevention of prohibition related crimes. It is brought



HCP.No.2108 of 2024

to the notice of this Court that the prohibition related offences are being carried on with the active collusion of the Police Officials in some locations also to be investigated properly.

9. Accordingly, the impugned detention order passed by the second respondent in proceedings C.O.C.No.18/2024 dated 07.08.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Dharanikumar S/o. Arivazhagan, aged 31/2024 confined at Central Prison, Thiruchirappalli is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]
04.09.2024

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

Note: Registry is directed to issue a copy of this order to the Director General of Police, Mylapore, Chennai - 600 004.



HCP.No.2108 of 2024

To

WEB COPY

1. The State of Tamil Nadu represented by
The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector-cum-District Magistrate,
Nagapattinam District,
Nagapattinam.
4. The Superintendent of Police,
Nagapattinam.
5. The Superintendent,
Central Prison,
Thiruchirapalli.
6. The Inspector of Police,
Kilvelur Police Station,
Nagapattinam District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



WEB COPY



HCP.No.2108 of 2024

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

veda

H.C.P.No.2108 of 2024

04.09.2024