



WEB COPY



HCP.No.2209 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2209 of 2024

Aravindhan

... Petitioner/Son
of the Detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Salem City,
Salem.
3. The Superintendent,
Special Prison for Women, Coimbatore,
Coimbatore District.
4. The Inspector of Police,
Pallapatty Police Station,
Salem City,
Salem.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in C.M.P.No.63/Goonda/Salem City/2024 dated 08.08.2024 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's mother namely Uma @ Santhi, female, aged about 55 years, w/o. Gengan is now confined at Special Prison for Women, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.M.Selvam
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 08.08.2024 is sought to be quashed in the present habeas corpus petition.

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Two cases are relied upon for the purpose of detaining the detainee under Act 14 of 1982.



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4. The first relied on case was registered at Tiruvarur Town Police Station in Crime No.872/2021 under Section 379 of IPC. The second adverse case was registered by Thenkasi District, Puliankudi Police Station in Crime No.113/2024 under Section 379 of IPC.

5. The ground case relating to Section 303(2) of the Bharathiya Nyaya Sanhita, 2023 was registered in Crime No.716 of 2024.

6. The first relied on case has no proximity with the ground case. In respect of other two cases registered under Sections 379 and 303 (2) of Bharathiya Nyaya Sanhita, 2023, the same can be dealt with under the law of the land. There is no clinching materials available on record to establish that there is likelihood of causing breach of public order. Mere registration of criminal case would be insufficient to invoke the provisions of Act 14 of 1982. Beyond pending criminal cases, the detaining Authority has to establish that there is likelihood of causing breach of public order.



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7. For the aforesaid reasons, the detention order passed by the second respondent in proceedings C.M.P.No.63/Goonda/Salem City/2024 dated 08.08.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenue viz., Uma @ Santhi, aged 55 years, W/o. Gengan confined at Special Prison for Women, Coimbatore is directed to be set at liberty forthwith, unless her confinement is required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]
01.10.2024

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

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Salem City,
Salem.
4. The Superintendent,
Special Prison for Women, Coimbatore,
Coimbatore District.
5. The Inspector of Police,
Pallapatty Police Station,
Salem City,
Salem.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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V.SIVAGNANAM, J.

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