



WEB COPY



HCP.No.2371 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM :

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

H.C.P.No.2371 of 2024

Sarita Kathiya

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Tambaram City,
Office of Commissioner of Police
Sholinganallur,
Chennai – 600 119.

3.Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4.State rep.by its
The Inspector of Police,
PEW – Tambaram
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue
a Writ of Habeas Corpus, to call for the entire records, relating to the



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petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 03.06.2024 on the file of the second respondent herein made in proceedings memo in BCDFGISSSV.NO.74/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely J.BINOD BIHARI DANG, S/O.JAYADEB DANG, AGED 31 YEARS, before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.J.Jayan
for Ms.Vedavalli

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 memo no. BCDFGISSSV.NO.74/2024 dated 03.06.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.We have gone through the grounds of detention, which would reveal that some of the documents are illegible. More so, one adverse case relied upon by the detaining authority along with ground case would be insufficient to form an opinion that there is likelihood of breach of public order.



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3.Pertinently, the detenu was arrested on 07.05.2024 and the impugned order of detention has been issued on 03.06.2024. Thus, the very requirement of causing element of breach of public order is missing in the impugned order of detention.

4.The apprehension of causing public disorder by the detenu is the mandatory requirement under Act 14 of 1982. When the said element is missing in the impugned order, then the Court has no option, but to assail the order of detention.

5.Accordingly, the impugned order of detention in memo no. BCDFGISSSV.NO.74/2024 dated 03.06.2024 is quashed and the Habeas Corpus Petition stands **allowed**. The detenu viz., J.Binod Bihari Dang, son of Jayadeb Dang, aged 31 years, who is confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

15.10.2024

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Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order/Non-speaking order

To

1.The Secretary
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Tambaram City,
Office of Commissioner of Police
Sholinganallur,
Chennai – 600 119.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
PEW – Tambaram
Chennai.

5.The Public Prosecutor,
Madras High Court.



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AND
V.SIVAGNANAM, J.

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