



WEB COPY



HCP.No.2449 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM :

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

H.C.P.No.2449 of 2024

Nasar Basha

... Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.District Collector and District Magistrate,
Tirupathur District, Tirupathur – 635 601.

3.The Superintendent of Police,
Tirupathur District, Tirupathur-1.

4.The Superintendent of Prison,
Central Prison, Vellore -2.

5.The Inspector of Police,
Ambur Town Police Station,
Tirupathur District.

... Respondents



HCP.No.2449 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, call for the records in connection with the order of Detention passed by the second respondent dated 09.08.2024 C3/D.O.NO.42/2024 against the petitioner Son Shaik Ismail @ Ismail, Male aged 24 years, S/o.Nasar Basha, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before the Court and set him at liberty.

For Petitioner : Mr.P.Raman

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 Commissioner of Police, Greater Chennai in proceedings C3/D.O.NO.42/2024, dated 09.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. 3 adverse cases are relied by the detaining authority to invoke Act 14 of 1982. The 1st adverse case in Crime No.193 of 2021 was registered for the offences under Sections 294(b), 323 IPC. The 2nd adverse case in Crime No.79 of 2022 was registered for the offences under Sections 294(b), 384, 465, 354(A), 506(ii) IPC r/w Section 4 of Tamil Nadu



HCP.No.2449 of 2024

WEB COPY

Prohibition of Harassment of women Act, 2002 and 67(A) Information Technology (Amendment) Act, 2008 @ 294(b), 384, 465, 354(A), 506(ii) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of women Act, 2002 and 323 IPC. The 3rd adverse case in Crime No.239 of 2023 was registered for the offences under Sections 341, 302 IPC @ 341, 302, 323, 34 IPC. The 1st two cases have no proximity with the ground case. The ground case has been registered in Crime No.592 of 2024 under Sections 126(2), 294(b), 118(2), 351(3), 109 BNS Act, 2023. The cases are relating to personal dispute/vengeance. That being the case, the role of public disorder has not been established. Subjective satisfaction of the detaining authority to form an opinion that there is a likelihood of causing breach of public order must be established for invoking Act 14 of 1982.

3. Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law.



HCP.No.2449 of 2024

WEB COPY

4. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings C3/D.O.NO.42/2024, dated 09.08.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Shaik Ismail @ Ismail, Male aged 24 years, S/o.Nasar Basha, who is confined at Central Prison, Vellore, 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.]

18.10.2024

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

gd



WEB COPY



HCP.No.2449 of 2024

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

gd

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.District Collector and District Magistrate,
Tirupathur District, Tirupathur – 635 601.
- 3.The Superintendent of Police,
Tirupathur District, Tirupathur-1.
- 4.The Superintendent of Prison,
Central Prison, Vellore -2.
- 5.The Inspector of Police,
Ambur Town Police Station,
Tirupathur District.
- 6.The Public Prosecutor,
Madras High Court.

H.C.P.No.2449 of 2024

18.10.2024