



WEB COPY



H.C.P.No.2539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2539 of 2024

Santhi
W/o Selvam

.. Petitioner

v.

1. The State of Tamil Nadu
rep by its Principal Secretary
Home, Prohibition and Excise Department
Secretariat Complex, Chennai 600 009

2. The Commissioner of Police
Chennai District
Chennai 600 007

3. The Superintendent of Prisons
Special Prison for Women, Puzhal
Chennai 600 066

4. The Inspector of Police
P-4 Basin Bridge Police Station
Chennai District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying



H.C.P.No.2539 of 2024

for issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order in No.800/BCDFGISSSV/2024 dated 31.07.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and quash the same and direct the respondents to produce the petitioner's daughter Sudha, aged 34 years, D/o Selvam, who is presently confined in the Special Prison for Women, Puzhal, Chennai before this Hon'ble Court and set her at liberty.

For Petitioner :: Mr.Santhosh.P

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the mother of the detainee, viz., Sudha, D/o Selvam, W/o Kumar, aged 34 years, now confined at Special Prison for Women, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in No.800/BCDFGISSSV/2024 dated 31.07.2024.

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

3. Four adverse cases registered in 2023 & 2024 under the Cigarette



H.C.P.No.2539 of 2024

and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production Supply and Distribution) Act, 2003 are relied on by the detaining authority. The quantity involved in the adverse cases cannot be construed as huge commercial quantity. The ground case is also registered for similar offence. The detinue is already under detention for about three months. These small scale vendors of tobacco products can be dealt with properly under the regular penal law. In the event of confiscating huge commercial quantity of such products, then the police authorities have to take stringent actions. By keeping this kind of small vendors under the preventive detention law will not serve any purpose nor can be construed as if it would cause public disorder. The preventive detention law being draconian is to be invoked sparingly so as to detain persons who are all causing public disorder and not in respect of certain routine cases which are all registered against persons who are involved in regular small scale offence. Thus, we are inclined to interfere with the impugned detention order.

4. Accordingly, the detention order passed by the second respondent



H.C.P.No.2539 of 2024

in No.800/BCDFGISSSV/2024 dated 31.07.2024 is hereby set aside and the habeas corpus petition is allowed. The detenue viz., Sudha, D/o Selvam, W/o Kumar, aged 34 years, now confined at Special Prison for Women, Puzhal, Chennai is directed to be set at liberty forthwith, unless her confinement is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

25.10.2024

SS

To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department
Secretariat Complex, Chennai 600 009
2. The Commissioner of Police
Chennai District
Chennai 600 007
3. The Superintendent of Prisons
Special Prison for Women, Puzhal
Chennai 600 066
4. The Inspector of Police
P-4 Basin Bridge Police Station
Chennai District



5. The Public Prosecutor
High Court, Madras

WEB COPY



H.C.P.No.2539 of 2024



WEB COPY



H.C.P.No.2539 of 2024

S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

H.C.P.No.2539 of 2024

25.10.2024