



HCP.No.2478 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2478 of 2024

S.Sandiya

... Petitioner/Wife of the
Detenu

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.
2. The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
3. The Superintendent of Police,
Ariyalur District,
Ariyalur.
4. The Superintendent,
Central Prison,
Tiruchirappalli.



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5. The Inspector of Police,
All Women Police Station,
Ariyalur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in Cr.M.P.No.15/SEXUAL OFFENDER/2024 dated 10.06.2024 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's husband Thiru.Sakthivel son of Veeramuthu, aged about 22 years, who is now detained in Central Prison, Thiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.K.Gandhi Kumar

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 10.06.2024 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.



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3. The detenu was arrested on 17.05.2024 and the impugned detention order has been passed on 10.06.2024.

4. The cases registered against the detenu is under POCSO Act along with Section 376 (2) (n) of Indian Penal Code.

5. No doubt, the alleged offence is heinous in nature. However, there is no adverse case relied on against the detenu while invoking Act 14 of 1982. The ground case can be dealt with under the law of the land.

6. The scope of preventive detention law cannot be expanded for the purpose of punishing an accused in a pending criminal case. The preventive detention law being draconian, power to invoke must be made sparingly and the Police Authorities are not empowered to use such powers in order to detain a person against whom the criminal case has been registered. The power of conviction do not vest with the Police Authorities. Preventive detention law is a special enactment, which is to be utilized only when there is likelihood of causing breach of public order and not based on



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the criminal case registered against the person.

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7. Number of criminal case registered would be insufficient to form an opinion that there is likelihood of causing breach of public order. The nature of involvement of a person to cause public disorder must be the criteria for invoking Act 14 of 1982. Subjective satisfaction based on the materials available on record are of paramount importance. Therefore, in order to detain a person, Act 14 of 1982 cannot be invoked by the detaining Authority.

8. In the present case based on the solitary case, the impugned order of detention has been passed. We are of the considered opinion that the reasons stated in the order impugned would be insufficient to form an opinion that there is likelihood of causing breach of public order as held by the Hon'ble Supreme Court in the case of ***Ram Manohar Lohia*** case.

9. Accordingly, the detention order passed by the second respondent in proceedings Cr.M.P.No.15/2024 dated 10.06.2024 is hereby



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set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Sakthivel, aged 22/2024, S/o. Veeramuthu confined at Central Prison, Tiruchirappalli 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.]
19.10.2024

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



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To

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1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
4. The Superintendent of Police,
Ariyalur District,
Ariyalur.
5. The Superintendent,
Central Prison,
Tiruchirappalli.
6. The Inspector of Police,
All Women Police Station,
Ariyalur District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
V.SIVAGNANAM, J.

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