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HCP.No.2497 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2497 of 2024

Nishar Ahamed

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Chennai – District.

3.The Superintendent,
Central Prison, Puzhal, Chennai – 600 066.

4.The Inspector of Police,
Anti Vice Squad-II,
Chennai – CCB.

... 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 petitioner's father detention order under Tamil Nadu Act 14 of 1982 vide detention order dated 12.09.2024 on the file of the 2nd respondent in pursuance of his order No.939/BCDFGISSSV/2024, and quash the same as



HCP.No.2497 of 2024

illegal and consequently direct the respondents herein to produce the petitioner's father namely THIRU.BASHEER MOHAMED IBRAHIM, S/O.BASHEER MOHAMED AGED 61 YEARS before this High Court and set the petitioner's father at Liberty from detention, now the petitioner father is detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.T.Meganathan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Based on the adverse case registered in Crime No.29 of 2023 under the provision of Immoral Traffick Prevention Act, 1956, the impugned order of detention has been issued. Ground case also has been registered under Immoral Traffick Prevention Act, 1956.

2. The learned Additional Public Prosecutor would submit that the chargesheet has already been filed in the criminal case. Therefore, the case registered can be dealt with law of the land. Keeping the detenue under prevention detention, after filing of chargesheet may not be legal and more so, in the present case, the grounds found in the detention order



HCP.No.2497 of 2024

WEB COPY

would be insufficient for invoking Act 14 of 1982. Mere registration of criminal case would be insufficient and likelihood of causing public disorder is to be established. Though the offence under the Immoral Traffick Prevention Act falls under the ground for invoking Act 14 of 1982, it is to be invoked cautiously, wherever it is just and necessary and not in a repeated manner. Since chargesheet has been filed, the police authorities may proceed with the case under the regular penal law.

3. Accordingly, the detention order passed by the second respondent in No.939/BCDFGISSSV/2024 dated 12.09.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., BASHEER MOHAMED IBRAHIM, S/O.BASHEER MOHAMED AGED 61 YEARS, the detenu herein now confined in 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.]

[M.J.R., J.]

04.11.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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HCP.No.2497 of 2024

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai – District.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai – 600 066.
- 4.The Inspector of Police,
Anti Vice Squad-II,
Chennai – CCB.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.

H.C.P.No.2497 of 2024

04.11.2024