



WEB COPY



HCP.No.2502 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.2502 of 2024

Priyadharshini

... Petitioner

Vs.

1.State of Tamil Nadu,
rep by its Secretary,
Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

2.The District Collector and Magistrate,
Namakkal,
Namakkal District.

3.The Superintendent of Police,
Namakkal,
Namakkal District.

4.The Superintendent,
Central Prison,
Salem,
Salem District.

5.The Inspector of Police,
Erumapatty Police Station,
Namakkal District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records of the detention 30.06.2024 in detention order C.M.P.No.25/Sexual Offender / 2024/M1 on the file of the Second Respondent herein and quash the same and direct the Respondents herein to produce the body of the detainee Karan, Son of Anandan, Hindu aged about 24 years, who is now confined in Central Prison, Salem before the Court and set him at Liberty.

For Petitioner : Mr.S.Kasirajan

For Respondents : Mr.R.Muniyapparaj
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 proceedings C.M.P.No.25/Sexual Offender / 2024/M1 dated 30.06.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Based on the solitary case registered under POCSO Act, the detainee has been detained under Act 14 of 1982. He is in prison under preventive detention law for about 4 ½ months.



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3. The learned Additional Public Prosecutor would submit that the nature of offence committed is heinous. Undoubtedly, such offence ought to be dealt with under the penal law and in the present case chargesheet has already been filed.

4. That being so, the prosecution may request the Trial Court for speedy trial and disposal. Instead, the detaining Authority cannot invoke Act 14 of 1982 to punish an accused who is involved in a criminal case. The object of preventive detention law is not to punish a person, but to invoke in the event of establishing likelihood of causing breach of public order. Mere registration of a criminal case would be insufficient. In the present case, the offence can be dealt with under the law of the land. Even in case an accused has been granted bail, the police authorities may file a petition to cancel the bail or in alternate for imposing stringent conditions. Contrarily, preventive detention law cannot be invoked in order to punish an accused before conducting any trial in a criminal case. This exactly is the reason why the Constitutional Courts across the Country reiterated that the preventive detention law must be invoked sparingly, only if the authority formed an opinion subjectively that there is likelihood of causing



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public disorder and not otherwise. In the present case, except the ground case there is no adverse case relied on nor the learned Additional Public Prosecutor would be able to produce any bad antecedent.

5. Accordingly, the detention order passed by the second respondent in C.M.P.No.25/Sexual Offender / 2024/M1 dated 30.06.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Karan, Son of Anandan, aged about 24 years, who is now confined in Central Prison, Salem, 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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To

- 1.The Secretary,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector and Magistrate,
Namakkal,
Namakkal District.
- 3.The Superintendent of Police,
Namakkal,
Namakkal District.
- 4.The Superintendent,
Central Prison,
Salem,
Salem District.
- 5.The Inspector of Police,
Erumapatty Police Station,
Namakkal District.
- 6.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 7.The Public Prosecutor,
Madras High Court.



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

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