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H.C.P.No.2512 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2512 of 2024

Divya
D/o Devaraj

.. Petitioner

v.

1. The Addl. Chief Secretary to the Government
Government of Tamil Nadu
(Home) Prohibition and Excise Department
Secretariat, Fort St.George
Chennai 600 009

2. The Commissioner of Police
Office of the Commissioner of Police
(Drug Offender)
Greater Chennai, Chennai 600 007

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

4. The State rep.by The Inspector of Police
Prohibition Enforcement Wing
Anna Nagar, Chennai

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein in Memo No.909/BCDFGISSSV/2024 dated 31.08.2024 passed against the petitioner's husband of the detenu namely Thiru.Sasikumar, S/o Pandian, aged about 29 years, who is confined at Central Prison, Puzhal, Chennai 600 066 and set aside the same, consequently directing the respondents herein to produce the body and person of the detenu before this Honble Court and set him at liberty forthwith.

For Petitioner :: Ms.M.Reena

For Respondents :: Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the wife of the detenu, viz., Sasikumar, S/o Pandian, aged 29 years, now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in No.909/BCDFGISSSV/2024 dated 31.08.2024.

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



3. Two adverse cases are relied upon for issuing the impugned detention order. Four previous cases registered against the detenu would reveal that all those cases are IPC offences, which can be dealt with under the regular penal law. As far as the ground case is concerned, it is registered under the Narcotic Drugs and Psychotropic Substances Act. On overall consideration of the nature of adverse cases and other previous cases, we could form an opinion that the grounds for invoking the preventive detention law are insufficient and the authorities, while invoking Act 14 of 1982, are expected to be cautious, since such invocation in a callous manner would cause infringement of the fundamental rights ensured under Article 21 of the Constitution of India. When the personal liberty of a person is involved, the preventive detention law is to be invoked only if there are strong reasons to believe that there is a likelihood of causing breach of public order. It is the presumption which provide the basis for the detaining authority to invoke Act 14 of 1982. Such opinion must be formed based on the materials available on record. A mere presumption would be insufficient. In the absence of any material, the detention order cannot be sustained. In the present case, the other cases registered against the detenu



H.C.P.No.2512 of 2024

under IPC can be dealt with under the regular penal law. Thus, we are inclined to interfere.

4. Accordingly, the detention order passed by the second respondent in No.909/BCDFGISSSV/2024 dated 31.08.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Sasikumar, S/o Pandian, aged 29 years, now confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(M.J.R.,J.)

Neutral citation : yes/no

04.11.2024

ss

To

1. The Addl. Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Fort St.George, Chennai 600 009
2. The Commissioner of Police
Office of the Commissioner of Police
(Drug Offender)
Greater Chennai, Chennai 600 007



H.C.P.No.2512 of 2024

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3. The Superintendent of Prison
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5. The Public Prosecutor
High Court, Madras



WEB COPY



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