

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM :

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

H.C.P.No.2537 of 2024

Shanthi
W/o Srinivasan

.. 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
Office of Commissioner of Police
Chennai 600 007
3. The Superintendent of Prisons
Special Prison for Women, Puzhal
Chennai 600 066
4. The Inspector of Police
K-8, Arumbakkam Police Station
Chennai District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order in No.968/BCDFGISSSV/2024 dated 19.09.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and quash the same and direct the respondents to produce the detenue Sathish @ Sanjana, Transgender, aged 31, W/o Robbert @ Chinna Robbert, 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.P.Santhosh

For Respondents :: Mr.E.Raj Thilak
 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 No.968/BCDFGISSSV/2024 dated 19.09.2024 is sought to be quashed in the present habeas corpus petition.

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

3. The detaining authority relied on three adverse cases in the impugned order for invoking Act 14 of 1982 against the detainee. Crime No.353 of 2023 was registered for the offence under Sections 147, 294(b), 323, 448 & 506(i) of IPC; Crime No.53 of 2024 for the offence under Sections 294(b), 353, 506(i) of IPC; Crime No.249 of 2024 for the offence under Sections 147, 148, 341, 294(b), 336, 427, 392, 397 and 506(ii) of IPC, all on the file of K-4 Anna Nagar Police Station, Chennai. The ground case in Crime No.339 of 2024 has been registered by the fourth respondent for the offence under Section 8(c) read with Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and 132 of Bharatiya Nyaya Sanhita, 2023. The learned counsel for petitioner would submit that the mother of the detainee is a chronic cancer survivor and is taking continuous treatment. Considering the fact that the adverse cases can be dealt with by the police authorities under the law of the land, whether the preventive detention law is required to be invoked or not is to be considered. The preventive detention law being draconian is to be invoked sparingly when the detaining authority subjectively satisfied that there is a

likelihood of causing breach of public order. Mere registration of number of criminal cases alone would be insufficient to form an opinion that there is a likelihood of causing public disorder. Materials available on record must be established for invoking Act 14 of 1982. In the present case, all the adverse cases and the ground case can be dealt with by the authorities under the law of the land and even in case where bail is granted, the police authorities may file a petition to cancel the bail or in the alternate, seek stringent conditions to be imposed by the Court concerned. Contrarily, by invoking the preventive detention law, the authorities cannot be having a mindset to punish the accused persons who are involved in criminal cases. In the present case, we do not find any sufficient reason for the detaining authority to pass the order of detention.

4. In the light of the above, the detention order passed by the second respondent in No.968/BCDFGISSSV/2024 dated 19.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenue viz., Sathish @ Sanjana, Transgender, W/o Robbert @ Chinna Robbert, aged 31 years, who is presently undergoing detention in the Special Prison for Women,

Puzhal, Chennai, is directed to be set at liberty forthwith unless she is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

19.10.2024

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To

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Home, Prohibition and Excise Department
Secretariat, Chennai 600 009
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Office of Commissioner of Police
Chennai 600 007
3. The Superintendent of Prisons
Special Prison for Women, Puzhal
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