



WEB COPY



HCP.No.2574 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM :

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

H.C.P.No.2574 of 2024

S. Deepa

... Petitioner /wife of the detenu

Vs

State of Tamilnadu rep. by its

1. The Additional Chief Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai 600 009.
2. The Commissioner of Police  
Avadi City,  
Office of The Commissioner of Police,  
Avadi, Chennai - 600 054
- 3 The Superintendent of Police  
Central Prison, Puzhal, Chennai.
- 4 The Inspector of Police,  
T-6 Avadi Police Station,  
Avadi, Chennai.

... Respondents



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**PRAYER:** Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, in connection with the order of Detention passed by the 2nd respondent dated 21.08.2024 in BCDFGISSSV. No.136/2024 against the petitioner's husband Ganga @ Gangadharan, Male, aged 50 years, S/o. Kuppaiya, at present, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before the Honble Court and set him at Liberty.

For Petitioner : Mr. S. Chandrasekaran  
For Respondents : Mr.E. Raj Thilak  
Additional Public Prosecutor

**ORDER**

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

The order of detention passed by the Commissioner of Police, Avadi City, in BCDFGISSSV. No.136/2024 dated 21.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Based on 5 adverse cases and the ground case, the impugned detention order has been issued. All the adverse cases are registered under Section 379 IPC and the ground case alone is registered under Section 397 IPC (311 of BNS) .



HCP.No.2574 of 2024

3. The learned counsel for the petitioner would submit that there are discrepancies even in registering the criminal case. Third and Fourth adverse cases are registered by T-6 Avadi Police Station in Crime No.465 of 2024 and Crime No.540 of 2024. Pertinently crime no.465 of 2024 was registered on 24.06.2024 and Crime No.540 of 2024 was stated to be registered on 23.02.2024, which is sufficient to form an opinion that the registration of the case itself is false.

4. All these cases under IPC can be dealt with under the Regular Penal Law. As per the detention order, the detenu has not filed any bail application. In the event of filing any bail application, the police authorities may object the same or in the event of grant of bail file a petition to cancel the same. In alternate, the authorities may pray the Court for imposing stringent conditions.

5. Contrarily, invoking Act 14/1982 with an idea to punish an accused at no circumstances be encouraged by the constitutional Courts since it would infringe the fundamental right of the citizen under Part III of the Constitution. The valuable right ensured under the Constitution, it must be protected by the Constitutional Courts. The regular IPC offences can be dealt with by the authorities under the



HCP.No.2574 of 2024

Law of the land and therefore, invoking Act 14 must be used cautiously and sparingly.

6. We find that the adverse cases can be dealt with in the manner known to law and more so, the subjective satisfaction, which is an element under the Act 14 of 1982 has not been satisfied.

7. Hence, for the aforesaid reason, the detention order passed by the second respondent in BCDFGISSSV. No.136/2024 dated 21.08.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Ganga @ Gangadharan, Male, aged 50 years, S/o. Kuppaiya, confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

14.11.2024

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

mrp

Page 4 of 6



HCP.No.2574 of 2024

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

mrp

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