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H.C.P.No.2605 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.2605 of 2024

Sangeetha
W/o Senthil Kumar .. Petitioner

v.

1. The Secretary to Government
Government of Tamil Nadu
(Home) Prohibition and Excise Department
Fort St.George, Chennai

2. The Commissioner of Police
Greater Chennai

3. The Superintendent
Central Prison, Puzhal
Chennai-66

4. The Inspector of Police
P-5, M.K.B.Nagar Police Station
Chennai .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the records relating to



H.C.P.No.2605 of 2024

the impugned order 788/BCDFGISSSV/2024 dated 23.07.2024 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the detenu, namely, Senthil Kumar, Son of Manoharan, aged about 42 years, now confined at Central Prison, Puzhal, Chennai-66 before this Hon'ble Court set him at liberty.

For Petitioner :: Mr.G.Vinodhkumar

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., Senthil Kumar, S/o Manoharan, aged 42 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.788/BCDFGISSSV/2024 dated 23.07.2024.

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

3. Based on the ground case, the detention order has been passed. The



H.C.P.No.2605 of 2024

ground case was initially registered under Section 307 IPC and subsequently altered to Section 302 IPC. The detenu caused injuries to a woman on account of certain disputes as neighbours. This alleged offence committed due to personal vengeance would not fall under the category of causing public disorder. The case registered under IPC offence can be dealt with under the penal law. The definition of 'public order' has been well enumerated by the Apex Court in the case of *Dr.Ram Manohar Lohia v. State of Bihar, AIR 1966 SC 740*. Therefore, the detaining authority must arrive at the subjective satisfaction that there is a likelihood of causing breach of public order before invoking the preventive detention law. The preventive detention law being draconian, its casual invocation would infringe the personal liberty of a citizen. The Courts have repeatedly held that the Act must be invoked sparingly only where the authority has subjectively satisfied that there is a likelihood of causing public disorder. In the present case, the ground case alone resulted in issuance of the impugned detention order and in our opinion, it would be insufficient and the ground case can be dealt with under the law of the land. Thus we are inclined to interfere.



H.C.P.No.2605 of 2024

4. Accordingly, the detention order passed by the second respondent in No.788/BCDFGISSSV/2024 dated 23.07.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Senthil Kumar, S/o Manoharan, aged 42 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 Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai
2. The Commissioner of Police
Greater Chennai, Chennai 600 007
3. The Superintendent
Central Prison, Puzhal
Chennai 600 066
4. The Inspector of Police
P-5, M.K.B.Nagar Police Station
Chennai



5. The Public Prosecutor
High Court, Madras

WEB COPY



H.C.P.No.2605 of 2024



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S.M.SUBRAMANIAM,J.

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H.C.P.No.2605 of 2024

04.11.2024