



HCP.No.2758 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2758 of 2024

Krishnaveni

... Petitioner/Mother of the
detenue

Vs.

1. The 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,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Inspector of Police,
R5, Virugambakkam Police Station,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records connected with the order of the 2nd respondent herein in Memo No.907/BCDFGISSSV/2024 dated 31.08.2024 passed against the petitioner son detenu namely Thirumurugan, son of Kandasamy, aged about 43 years, as a "GOONDA" who is confined at Central Prison, Puzhal, Chennai and set aside the same, consequently direct the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Murugavel
For Respondents : Mr. R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 31.08.2024 is sought to be quashed in the present habeas corpus petition.

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



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3. Based on the solitary ground case, the impugned order of detention has been passed.

4. The detenu has been charged for the offence punishable under Section 109 of Bharatiya Nyaya Sanhita, 2023 for attempting murder of his wife.

5. The learned Counsel for the petitioner would submit that though the case was registered under Section 109 of Bharatiya Nyaya Sanhita, 2023, it was subsequently converted to Section 103 of Bharatiya Nyaya Sanhita, 2023.

6. The element of causing breach of public order is missing in the present case. The case registered under Section 109 of Bharatiya Nyaya Sanhita, 2023 can be dealt with under the general penal law. In the event of grant of bail, the Police Authorities may file an application seeking cancellation or for imposing stringent conditions. However, we do not find any sufficient reason for invoking Act 14 of 1982.



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7. Accordingly, the detention order passed by the 2nd respondent, in proceedings No.907/BCDFGISSSV/2024 dated 31.08.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Thirumurugan, aged 43 years, S/o. Kandasamy 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.]
13.11.2024

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



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To

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1. The Secretary to the Government,
Government of Tamil Nadu,
(Home) Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
4. The Inspector of Police,
R5, Virugambakkam Police Station,
Chennai.
5. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 066.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
M.JOTHIRAMAN, J.

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