



WEB COPY



HCP.No.2979 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2979 of 2024

Gayathri

... Petitioner/Wife of the
detenu

Vs.

1. State of Tamil Nadu represented
by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. State represented by Inspector of Police,
H-3, Tondiarpet Police Station,
Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records of the 2nd respondent pertaining to the order made in Memo No.1044/BCDFGISSSV/2024 dated 10.10.2024 in detaining the detenu under the Tamil Nadu Act 14 of 1982 as a brand of GOONDA and quash the same and direct the respondents to produce the detenu, petitioner's husband John @ Johnson S/o. Baskar aged 29 years, who is detained at the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner	: Mr.S.Ramachandran
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 10.10.2024 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. The impugned detention order has been passed relying on four adverse cases and the ground case.

4. The first adverse case was registered under NDPS Act in Crime No.328 of 2022. The second adverse case was registered in Crime No.93 of 2023 under Section 229A IPC. The third adverse case was registered in Crime No.404 of 2023 under Sections 147, 148, 294(b), 324, 332, 353 & 506 (i) IPC. The fourth adverse case was registered in Crime No.543 of 2024 under Sections 341, 294(b), 324, 506(ii) IPC. The ground case was registered in Crime No.524 of 2024 under Sections 126(2), 296(b), 125, 324(2), 309 (4), 311, 351 (3) of Bharatiya Nyaya Sanhita 2023.

5. The learned Additional Public Prosecutor appearing on behalf of the respondents has furnished the details regarding the previous cases registered against the detenu. All those cases were registered in the year 2015, 2016, 2017 and 2018. It is brought to the notice of this Court that the most of the cases ended with an order of acquittal. Few cases are at the trial



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stage. The second adverse case has no close proximity with the ground case.

The third and fourth adverse cases can be dealt with under the ordinary law and by following the procedure. The ground case reveals that the detenu threatened the complainant and taken away a sum of Rs.550/- from the complainant's shirt pocket. Considering the nature of the allegations set out in the complaint, we are of the considered opinion that the said case also can be dealt with under the law of the land. In respect of regular cases, invoking preventive detention law cannot be approved by this Court. Since the materials referred in the detention order are lacking and insufficient for invoking the provisions of Act 14 of 1982, we are inclined to interfere.

6. That apart the detenu himself filed an affidavit of undertaking dated 18.12.2024, which reads as under:

"3. I further state that I do agree that several offences has been done by me but out of that 20 previous cases, most of the cases filed against me are false one, even though I have not committed any offences the police officer will call me for enquiry subsequently remand me without giving proper reason for the remand. I further state that out of those 20 cases, around 5 cases I have got acquittal.



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4. *I state that once I come out from prison, I will start to work as auto driver to look after the day to day needs of my family.*

5. *I state that to show my bonafide and good conduct, I undertake that again I will not engage in any offences like before and also I will focus on my rehabilitation."*

7. In view of the above, the detention order passed by the 2nd respondent, in proceedings No.1044/BCDFGISSSV/2024 dated 10.10.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., John @ Johnson, aged 29 years, S/o. Baskar 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.]
21.12.2024

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 Government,
Home, Prohibition and Excise Department,
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,
Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
5. The Inspector of Police,
H-3, Tondiarpet Police Station,
Chennai.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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