



H.C.P.No.3091 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.3091 of 2024

Bibhasa Mandal

.. Petitioner

v.

1. The State of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009
2. The Commissioner of Police/Detaining Authority,
O/o.The Commissioner of Police,
Tiruppur City,
Tiruppur
3. The Superintendent of Prison,
Central Prison,
Coimbatore.
4. The Inspector of Police,



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Veerapandi Police Station,
Tiruppur City

.. Respondents

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Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus to call for the records relating to the Detention Order C No.39/D.O/IS/Tiruppur City /2024 dated 22.05.2024 passed by the second respondent and quash the same and direct the respondents herein to produce my brother namely Guruprashad Sarkar S/o.Ravindranath Sarkar, aged 35 years (Who is presently undergoing detention in the Central Prison, Coimbatore) before this Court and set him at liberty.

For Petitioner	::	Mr.M.N.Balakrishnan
For Respondents	::	Mr.R.Muniyapparaj Additional Public Prosecutor

ORDER

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

The petitioner/sister of the detenue has come forward with this petition challenging the detention order passed by the second respondent in proceedings C No.39/D.O/IS/Tiruppur City /2024 dated 22.05.2024.

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 ground case, the impugned detention order has been passed. The ground case was registered on 02.05.2024 in Crime No.278 of 2024 under the NDPS Act. The said ground case registered can be dealt with by the authorities under the ordinary law by following the procedures. The element of public disorder has not been established for the purpose of invoking Act 14 of 1982. Preventive detention law being draconian is to be invoked sparingly only when there is a likelihood of causing breach of public order. Breach of Public order has been defined by the Apex Court in the case of ***Ram Manohar Lohia Vs. State of Bihar and Another***, reported in 1965 SCC OnLine SC 9 wherein it has been held that the registration of one ground case under NDPS Act would be sufficient to invoke Act 14 of 1982. Therefore, we are inclined to interfere with the detention order.

4. Thus, the detention order passed by the second respondent in proceedings C No.39/D.O/IS/Tiruppur City /2024 dated 22.05.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz.,



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Guruprashad Sarkar S/o.Ravindranath Sarkar, aged 34 years, now confined at Central Prison, Coimbatore, 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

17.12.2024

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To

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5. The Public Prosecutor
High Court, Madras



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