



H.C.P.No.4 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM :

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

H.C.P.No.4 of 2025

Manju

... Petitioner

Vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. The Inspector of Police (Law & Order),
R-1 Mambalam Police Station,
Chennai

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the 2nd respondent dated 12.12.2024 in Memo No.1233/BCDFGISSSV/2024 against the petitioner's husband, Rameshkumar, male, aged 27 years, S/o. Kandhan, who is confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detainee before the Court and set him at liberty.

For Petitioner

: Mr. S. Senthivel



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For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor
for R1 to R4

ORDER

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

The order of detention passed by the second respondent, in Memo No. 1233/BCDFGISSSV/2024 dated 12.12.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Two adverse cases are relied on for the purpose of detaining the detenu. The ground case was registered in Crime No.279/2024 under Sections 126(2), 296(b), 115(2), 309(4), 125, 324(4) r/w. 311, 351(3) of BNS. A sum of Rs.600/- was recovered from the detenu while arrest him.

3. The learned counsel for the petitioner would submit that in the second adverse case registered in crime no.256 of 2024 the detenu was arrested and remanded to judicial custody. When he is already arrested and in judicial custody, the detaining authority has erroneously invoked Act 14 of 1982 since the element of subjective satisfaction is missing. When a person involved in a criminal case was arrested and in judicial custody, question arises whether invoking Act 14/1982 is necessary. In the present case, he was not released on



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bail and that being the case, the Preventive Detention may not arise. Preventive detention being draconian has to be invoked only when there is likelihood of causing breach of public order. In the present case, the detenu was already arrested in connection with adverse case and remanded to judicial custody. Thus, the detaining authority ought to have considered this while invoking Act 14/1982.

4. Hence, for the aforesaid reason, the detention order passed by the second respondent in No. 1233/BCDFGISSSV/2024 dated 12.12.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., S Rameshkumar, male, aged 27 years, S/o. Kandhan, confined in 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.]

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Index: Yes/No

Speaking/Non-speaking order

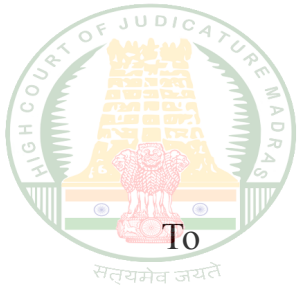
mrp

S.M.SUBRAMANIAM, J.

AND

M.JOTHIRAMAN, J.

mrp



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- To
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