



WEB COPY



HCP.No.3145 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.3145 of 2024

Thangam

... Petitioner/Wife of the detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

2.District Collector and District Magistrate of
Vellore District,
Vellore – 9.

3.The Superintendent of Police,
Vellore.

4.The Superintendent, Central Prison,
Vellore.

5.The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a



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Writ of Habeas Corpus, or any other appropriate writ order or direction in the nature of writ, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in C3/DO.NO.100/2024 dated 09.11.2024 in detain the detenu under 2 (e) of Tamil Nadu Act 14 of 1982 as a drug offender and quash the same and direct the respondent to produce the detenu Kothandan S/o.Devaraj aged about 46 years, who is detained at Central Prison, Vellore before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The order of detention passed by the second respondent in C3/DO.NO.100/2024 dated 09.11.2024 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.

3. The impugned detention order has been issued relying on the adverse cases and the ground case. All the adverse cases are registered under the



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Provisions of Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. The ground case was also registered under the very same Act.

4. The Act 14 of 1982 was invoked on the ground that the criminal case was registered under Section 123 of Bharatiya Nyaya Sanhita, 2023. Section 123 of Bharatiya Nyaya Sanhita deals about causing hurt by means of poison etc., with an intent to commit an offence.

5. All those cases registered against the convict prisoner have no proximity with the ground case. In 2024, 2 adverse cases are registered. The learned counsel for the petitioner would also submit that the representation given under the Act 14 of 1982 was not considered.

6. In a broader perspective, it requires careful analysis in view of the fact that there is no direct definition under Act 14 of 1982 with reference to the offences committed under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003. No doubt, Section 123 of Bharatiya Nyaya Sanhita may



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be invoked for the purpose of applying preventive detention law in certain nature of offences for which the Detaining Authority has to subjectively satisfy that there is a likelihood of causing breach of public order.

7. In the light of the above discussion and findings, we deem it appropriate that the cases registered against the detenu may be dealt with under the regular penal law by the Police Authorities.

8. Accordingly, the detention order passed by the second respondent, in C3/DO.NO.100/2024 dated 09.11.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Kothandan, S/o.Devaraj, aged 46 years, (who is presently under going detention in the Central Prison, Vellore), 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.]
02.01.2025

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To
1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.



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- 6.The Additional Public Prosecutor,
Madras High Court.



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