



WEB COPY



HCP.No.3220 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.3220 of 2024

I.Abdul Khan

... Petitioner/Father of the
Detenu

Vs.

1. State of Tamilnadu,
Represented by Secretary to Government,
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
2. The District Magistrate and District Collector,
Ranipet.
3. The Superintendent,
Central Prison,
Vellore.
4. The Superintendent of Police,
Superintendent of police office,
Ranipet,
Ranipet - 643 401.



HCP.No.3220 of 2024

5. The Inspector of Police,
Kalavai Police Station,
Ranipet District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records on the file of the second respondent in order B3/D.O.No.85/2024 dated 23.11.2024 quash the same and direct the respondents to produce the person or body of the detenu, Latif Khan, S/o.Abdul, aged 27 years set him at liberty who is now detained in Central Prison, Vellore.

For Petitioner : Mr.J.Jaisingh

For Respondents : Mr. R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 23.11.2024 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.



HCP.No.3220 of 2024

3. The impugned detention order has been issued relying on the ground case registered under the provisions of Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

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. 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 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.



HCP.No.3220 of 2024

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

7. Hence, for the aforesaid reasons, the detention order passed by the 2nd respondent, in proceedings B3/D.O.No.35/2024 dated 23.11.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Latif Khan, aged 27 years, S/o. Abdul confined at 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.]
08.01.2025

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



HCP.No.3220 of 2024

To

WEB COPY

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Magistrate and District Collector,
Ranipet.
4. The Superintendent,
Central Prison,
Vellore.
5. The Superintendent of Police,
Superintendent of police office,
Ranipet,
Ranipet - 643 401.
6. The Inspector of Police,
Kalavai Police Station,
Ranipet District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



WEB COPY



HCP.No.3220 of 2024

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

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H.C.P.No.3220 of 2024

08.01.2025