



H.c.P.No.3185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.01.2025

CORAM :

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

H.C.P.No.3185 of 2024

Lalitha

... Petitioner

Vs.

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

2.The District Collector and
District Magistrate,
Tirvarur District,
Tiruvarur.

3.The Superintendent of Police,
Tiruvarur District.

4.The Superintendent,
Central Prison,
Tiruchirappalli.

5.The Inspector of Police,
Kudavasal Circle Police Station,
Tiruvarur District.

... 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 relating to the detention order passed by the second respondent pertaining to the order made in C.O.C.No.35/2024 dated 03.10.2024 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 BHARANI @ BHARANITHARAN, son of SAMIDURAI aged about 32 years, who is detained at Central prison, Tiruchirappalli before this 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 *M.JOTHIRAMAN, J.*)

The order of detention passed by the 2nd respondent in proceedings C.O.C.No.35/2024 dated 03.10.2024 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 on the basis that one adverse case is registered under NDPS Act and the ground case, which is also registered under NDPS Act.

4. The learned Additional Public Prosecutor would submit that the detainee has involved in other criminal cases and submitted the list of previous cases.

5. The list of previous cases submitted before this Court would reveal that, those cases are either old and disposed of or not taken on file. Those cases have no proximity with the ground case for the purpose of invoking Act 14 of 1982. Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law.

6. Mere involvement of a person in a criminal case would be insufficient to invoke Act 14 of 1982. The subjective satisfaction of the detaining authority is of paramount importance and the same is missing in



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the present case. The relevance placed on the above previous cases have no nexus with the invocation of Act 14 of 1982. The NDPS case referred in the detention order may be dealt with by the Police Authorities under the ordinary law and by following due procedure. Thus, there is no application of mind and the detention order in the present case, is liable to be quashed.

7. Accordingly, the detention order passed by the second respondent in Proceedings C.O.C.No.35/2024 dated 03.10.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., BHARANI @ BHARANITHARAN, son of SAMIDURAI aged about 32 years, who is detained at Central prison, Tiruchirappalli, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

22.01.2025

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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Home Prohibition and Excise Department,
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Chennai – 600 009.
- 2.The District Collector and
District Magistrate,
Tirvarur District,
Tiruvarur.
- 3.The Superintendent of Police,
Tiruvarur District.
- 4.The Superintendent,
Central Prison,
Tiruchirappalli.
- 5.The Inspector of Police,
Kudavasal Circle Police Station,
Tiruvarur District.
- 6.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 7.The Public Prosecutor,
Madras High Court.



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AND
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