



H.C.P.No.3230 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.3230 of 2024

Divya Bharathi

... Petitioner

Vs.

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

2.The Commissioner of Police
Greater Chennai
Chennai

3.The Superintendent of Police
Special Prison for Women
Puzhal
Chennai 600 066

4.The Assistant Commissioner of Police
Investigation Officer
EDF-II, Central Crime Branch
Chennai

5.The Inspector of Police

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K-3, Aminjikrai Police Station
Perambalur

... Respondents

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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order No.1150/BCDFGISSSV/2024, dated 23.11.2024, passed by the 2nd respondent and to produce the petitioner's sister Mrs.Nivetha @ Naziya W/o.Mohamed Nishath aged about 30 years, the detainee now confined in Special Prison for Women, Puzhal, Chennai 600066, before this Court and set the petitioner's sister Nivetha @ Naziya, W/o.Mohamed Nishanth aged about 30 years the detainee herein at liberty.

For Petitioner : Mr.K.Subburaj
for M/s.C.M.Ramakrishnan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvestor John

ORDER

M.S.RAMESH, J.
AND
N.SENTHILKUMAR, J.

The petitioner, sister of the detainee viz. Nivetha @ Naziya, aged about 30 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 23.11.2024 slapped on



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her sister, branding her as "GOONDA" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Mr.K.Subburaj, the learned counsel for the petitioner placed reliance on the recent judgment of the Hon'ble Supreme Court in *Arjun V. The State of Maharashtra and others* case. The learned Additional Public Prosecutor by filing counter objected to the submissions made by learned counsel for the petitioner.

3.Among the various grounds raised in this Habeas Corpus Petition, the learned counsel for the petitioner submitted that since the occurrence in the ground case had happened within the house of the complainant, it cannot be termed as 'to create alarm and feeling of insecurity' in the minds of the people and could not be prejudicial to the manner of public order. Such a submission of the learned counsel for the petitioner and also



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supported by a recent judgment of the Hon'ble Supreme Court, in the case of **Arjun V. The State of Maharashtra and others** in Criminal Appeal No... of 2024 (Arising out of SLP (Crl.)No.12516 of 2024), wherein the Hon'ble Supreme Court had held as follows:

".....

15.As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order." (emphasis supplied).

4.In the instant case, it is not in dispute that the offence in the ground case was committed within the house of the complainant. By applying the ratio laid down by the Hon'ble Supreme Court in **Arjun V. The State of Maharashtra and others** case, we are of the view that the detaining authority was not correct in coming to the subjective satisfaction that by involving himself in the crime, the convict prisoner had not acted in a



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manner prejudicial to the maintenance of public order. Hence, on the above grounds, the Detention Order is liable to be quashed.

5. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 23.11.2024 in No.1150/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Nivetha @ Naziya, W/o.Mohamed Nishath, aged about 30 years, is directed to be set at liberty forthwith unless she is required in connection with any other case.

[M.S.R, J.] [N.S, J.]
17.02.2025
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kas

Index : Yes / No

Neutral Citation : Yes / No

To

1.The Additional Chief Secretary to Government
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