



WEB COPY



HCP.No.3216 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.3216 of 2024

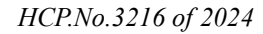
A.Sangeetha

... Petitioner/Wife of the
Detenu

Vs.

1. The Additional Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.
3. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
V4, Rajamangalam Police Station,
Chennai.

... Respondents



For Petitioner : Mr.C.Raja

For Respondents : Mr. R.Muniyapparaj
Additional Public Prosecutor

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

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 issued relying on one adverse and the ground case. The Ground case was 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



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detaining Authority has to subjectively satisfy that there is a likelihood of causing breach of public order.

6. In the light of the above discussion, we deem it appropriate that the cases 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 No.1041/BCDFGISSSV/2024 dated 10.10.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Anilkumar, aged 50 years, S/o. Lakshmanan confined at 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.]
08.01.2025

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



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To

WEB COPY

1. The Additional Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.
4. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
5. The Inspector of Police,
V4, Rajamangalam Police Station,
Chennai.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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