



HCP.No.3310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.3310 of 2024

Mythili

... Petitioner/Wife of the
Detenu

Vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. District Collector & District Magistrate,
Tirupathur District, Tirupathur - 635 601.
3. The Superintendent of Police,
Tirupathur District, Tirupathur - 1.
4. The Superintendent of Prison,
Central Prison, Vellore -2.
5. The Inspector of Police,
Vaniyambadi PEW Police Station,
Tirupathur District.

... Respondents



HCP.No.3310 of 2024

PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 11.12.2024 C3/D.O.No.64/2024 against the petitioner husband Thirupathi @ Settu, Male, aged 28 years, S/o. Palani, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Selvakumar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The writ of habeas corpus has been filed challenging the detention order passed by the second respondent in proceedings C3/D.O.No.64/2024 dated 11.12.2024.

2. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.



HCP.No.3310 of 2024

3. Three adverse cases registered under Tamil Nadu Prohibition Act were relied on by the detaining Authority for the purpose of invoking Act 14 of 1982. The ground case was also registered under the same Act. The said cases can be dealt with by the Authorities under the Ordinary Law.

4. Subjective satisfaction of the detaining Authority is essential for the purpose of invoking Act 14 of 1982. Involvement of a person in a criminal case would be insufficient and materials relied on must establish that there is a likelihood of causing breach of public order.

5. In this context it is useful to refer the Judgment of the Hon'ble Supreme Court of India in the case of **Arjun S/o. Ratan Gaikwad Vs. The State of Maharashtra and Ors.**, reported in (2023) 9 SCC 587 wherein, in para 13 and 15 it is held as follows:

"13. It could thus be seen that a Constitution Bench of this Court in unequivocal terms held that every breach of peace does not lead to public disorder. It has been held that when a person can be dealt with in exercise of powers to maintain the law and order; unless the acts of the proposed detainee are the ones which have the tendency of disturbing the public order a resort to preventive detention which is a harsh measure would not be permissible.



HCP.No.3310 of 2024

WEB COPY

.....

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. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack."*

6. Accordingly, the detention order passed by the second respondent in proceedings C3/D.O.No.64/2024 dated 11.12.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenu, viz., Thirupathi alias Settu, aged 28 years, S/o. Palani 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.]
20.01.2025

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



WEB COPY



HCP.No.3310 of 2024

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

veda

H.C.P.No.3310 of 2024

20.01.2025