



HCP.No.3291 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.3291 of 2024

Kiruba Kumanan

... Petitioner/Wife of the
Detenu

Vs.

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Thiruvarur District,
Thiruvarur.
3. The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
4. The Superintendent of Police,
Thiruvarur District,
Thiruvarur.



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5. The Inspector of Police,
Needamanalgam Police Station,
Thiruvavarur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the detention order passed by the 2nd respondent on 24.10.2024 in detention order in C.O.C.No.47/2024 (TPDA No.8558) and to quash the same consequently, direct the respondents herein to produce the petitioner's husband namely, Gandhi, S/o. Govindarajan, aged about 48 years, before this Court and set him at liberty, now detained at Central Prison, Tiruchirappalli as "Goonda".

For Petitioner : M/s.M.Karunanithi

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 C.O.C.No.47/2024 dated 24.10.2024.



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

3. One adverse case has been relied upon by the detaining Authority, which is registered in Cr.No.526 of 2021 under Sections 294 (b), 323, 506 (ii) of IPC @ 294 (b), 506 (ii), 324 of IPC. The said adverse case has no close proximity with the ground case, which was registered in the year 2024.

4. The facts in the ground case reveals that there is a personal dispute in the matter of borrowing of money from the complainant. Since the alleged offence occurred on the ground of money transactions between the complainant and the accused, invocation of preventive detention law would not be required. Such nature of cases have to be dealt with under the ordinary Law and the Police Authorities are bound to investigate and file a charge sheet and expedite the trial by following the procedures as contemplated. Instead, they cannot unnecessarily invoke Act 14 of 1982 with an idea to punish the accused, who is involved in a criminal case.



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Unless a person is convicted by the competent criminal court of law, he is presumed to be innocent. Thus, we are inclined to interfere with the order impugned.

5. Accordingly, the detention order passed by the second respondent in proceedings C.O.C.No.47/2024 dated 24.10.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenu, viz., Gandhi, aged 48/2024, S/o. Govindarajan, confined at Central Prison, Tiruchirappalli 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
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To

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1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector and District Magistrate,
Thiruvarur District,
Thiruvarur.
4. The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
5. The Superintendent of Police,
Thiruvarur District,
Thiruvarur.
6. The Inspector of Police,
Needamanalgam Police Station,
Thiruvarur District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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