



HCP.No.3304 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.3304 of 2024

V.Jayalakshmi

... Petitioner/Wife of the
Detenu

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The District Magistrate and District Collector,
Kallakurichi District.
3. The Superintendent,
Central Prison, Cuddalore,
Cuddalore.
4. The Superintendent of Police,
Kallakurichi SP Office Building,
Kallakurichi District.
5. The Inspector of Police,
Kariyalur Police Station,
Kallakurichi District,
[Crime No.232 of 2024]

... Respondents



HCP.No.3304 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records leading to the detention of the petitioner's husband namely Venkatesan S/o. Gopal, aged about 37 years, *vide* detention order dated 25.11.2024 on the file of the 2nd respondent herein made in the proceedings in D.O.No.C2/71/2024, quash the same and consequently direct the respondents herein to produce the body and person of Venkatesan, S/o. Gopal, aged about 37 years, aged about 37 years before this Court and thereafter set him at liberty from Central Prison, Cuddalore District.

For Petitioner : Mr.T.Maha Vishnu

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 D.O.No.C2/71/2024 dated 25.11.2024.

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



HCP.No.3304 of 2024

3. One adverse case registered under Tamil Nadu Prohibition (Amendment) Act, 2024 was relied on by the Detaining Authority for the purpose of invoking Act 14 of 1982. The ground case was also registered under the Prohibition 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



HCP.No.3304 of 2024

detention which is a harsh measure would not be permissible.

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 D.O.No.C2/71/2024 dated 25.11.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenu, viz., Venkatesan, aged 37 years, S/o. Gopal confined at Central Prison, Cuddalore 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



HCP.No.3304 of 2024

To

WEB COPY

1. The 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 Magistrate and District Collector,
Kallakurichi District.
4. The Superintendent,
Central Prison, Cuddalore,
Cuddalore.
5. The Superintendent of Police,
Kallakurichi SP Office Building,
Kallakurichi District.
6. The Inspector of Police,
Kariyalur Police Station,
Kallakurichi District,
[Crime No.232 of 2024]
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



WEB COPY



HCP.No.3304 of 2024

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

veda

H.C.P.No.3304 of 2024

20.01.2025