



WEB COPY



HCP.No.1170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1170 of 2024

Vasantha

... Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison,
Central Prison,
Salem.
4. The Inspector of Police,
Veeranam Police Station,
Salem City.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the 2nd respondent in C.M.P.No.42/Goonda/Salem City/2024 dated 08.05.2024 against the petitioner's son the detenue Shanmugam @ Jambu aged 33 years s/o. Perumal is now confined in Central Prison, Salem and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.T.Muruganantham
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The impugned order of preventive detention dated 08.05.2024 has been issued relying on a single criminal case registered under Section 302 of IPC. It would be insufficient, if a criminal case has been registered against the detenue, it must be established that such criminal cases registered would result in causing disturbance to public order.



HCP.No.1170 of 2024

2. In the present case, the bail also has not been granted.

Likelihood of grant of bail is one of the criteria to be taken into consideration by the detaining Authority. In the absence of any such likelihood of grant of bail, invocation of Act 14 of 1982 would be improper. Therefore, registration of a criminal case alone cannot be a ground to detain a person under prevention laws. There must be reasons beyond the registration of a criminal case and likelihood of causing breach of public order would be subjective satisfaction to be exercised by the detaining Authority. Mere assessment would be insufficient and application of mind with reference to the fundamental right is to be looked into by the detaining Authority. Casual approach by the detaining Authority at no circumstances be encouraged by the Courts. Personal liberty being a valuable fundamental right of a citizen and in a developing country like ours, the preventive detention laws are to be exercised sparingly and not in a routine manner.

3. In the present case, the grounds on which the order of impugned detention has been passed would be insufficient to confirm the same. One criminal case registered under Section 302 of IPC would not be a



HCP.No.1170 of 2024

ground to pass an order of detention and in such circumstances, in every such similar case also there is a possibility of such order of detention by the competent Authority. Thus, we are are not convinced with the grounds under which the impugned order of detention has been passed.

4. Accordingly, the order of detention in proceedings C.M.P.No.42/Goonda/Salem City/2024 dated 08.05.2024 is quashed and the Habeas Corpus Petition stands **allowed**.

[S.M.S., J.]

[V.S.G.,

J.]

06.08.2024

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

veda



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Salem City.
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Central Prison,
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4. The Inspector of Police,
Veeranam Police Station,
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5. The Additional Public Prosecutor,
High Court of Madras.



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