



WEB COPY



HCP.No.1165 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1165 of 2024

Rama

... Petitioner

Vs.

State of Tamil Nadu rep. by

1.The Secretary to the Government,
Home, Prohibition and 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

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, relating to the order of detention passed by the 2nd respondent in C.M.P.No.43/Goonda/Salem City/2024 dated 08.05.2024 against the petitioner's husband the Detenue Mahendiran @ Kattaiyan Male aged 39 years Son of Manickam now confined in Central Prison,



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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 order of detention passed by the 2nd respondent in proceedings No. C.M.P.No.43/Goonda/Salem City/2024 dated 08.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The impugned order of detention was issued on 08.05.2024. The ground on which the order of detention sought to be assailed are that, there is a delay of three days in considering the representation as per the statute. The detenue was arrested on 01.04.2024 and the order of detention has been issued on 08.05.2024, after a lapse of more than one month.

3.The right to liberty enshrined under the constitution, is a fundamental rights, which can be implemented only by scrupulously following the procedure as contemplated for preventive detention. Prematured detention being a colonial law,



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the Authority competent is expected to exercise the power sparingly and when there is a definite case of apprehension of causing public order by the detainee but not otherwise.

4.In the present case, none of the criteria are satisfied for the purpose of invoking Act 14 of 1982 and thus, the order impugned has no legs to stand under the scrutiny of law.

5.Accordingly, the impugned order of detention passed by the 2nd respondent in proceedings No. C.M.P.No.43/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.]

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

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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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To

- 1.The Secretary to the Government,
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