



WEB COPY



HCP.No.1270 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.1270 of 2024

Keerthika

... Petitioner

Vs.

1.State rep. by
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,
Azhagapuram Police Station,
Salem.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in C.M.P.No.46/Goonda/Salem City/2024, dated 13.05.2024 on the file of the Commissioner of Police, Salem City,



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the second respondent herein and quash the same as illegal and direct the respondent to produce the detainee Thiru.Boopalan, S/o.Paramasivam, aged about 27 years, now confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Ms.S.Sengkodi

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 C.M.P.No.46/Goonda/Salem City/2024, dated 13.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The impugned order of detention dated 13.05.2024 has to be assailed on two grounds.

(i) Firstly, the detainee was arrested on 21.03.2024 but the impugned detention order has been issued on 13.05.2024, after a lapse of more than one month.

(ii) Secondly, the bail order in the adverse case dated 06.12.2023 in CrI.M.P.No.3644 of 2023 is illegible and such illegible copy of the order of the Court furnished to the detainee, resulted in causing prejudice to the detainee to



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submit effective representation to the authority.

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3.On both the grounds, the petitioner is entitled to succeed. The procedures as contemplated for invoking Act 14 of 1982 is to be followed in *stricto sensu*. Even a small lapse is to be resolved in favour of the detenu. That being the strict appliances of procedures to be adopted in preventive detention cases, the Authorities are expected to invoke preventive detention, only in the cases where, it is just and necessary. Routine invocation of preventive detention law may not be encouraged by this court.

4.In view of the facts and circumstances, the respondents could not be able to justify the order of detention, based on the grounds on which it has been issued. Consequently, the impugned detention order in C.M.P.No.46/Goonda/Salem City/2024, dated 13.05.2024 is quashed and the Habeas Corpus Petition is **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.

gd

To

- 1.The Secretary to the Government,
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Fort St.George,
Chennai – 600 009.
- 2.The Commissioner of Police,
Salem City.
- 3.The Superintendent of Prison,
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