



WEB COPY



HCP.No.1331 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.1331 of 2024

Dhanalashmi

... Petitioner

Vs.

1.State of Tamil Nadu rep. By
The Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Office of Avadi Commissiorate Avadi City,
Avadi.

3.The Superintendent of Prison,
Central Prison Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
E-5 Choolawaram Police Station,
Thiruvallur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to produce the body of the detenue by name Thiru.Prabhakaran @ Prabha aged 23, Son of Venkatesan presently confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 08.05.2024



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made in No.43/BCDFGISSSV/2024 passed by the 2nd respondent, Goonda Act quash the same.

For Petitioner : Mr.S.Salman Khan
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.43/BCDFGISSSV/2024 dated 08.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.No adverse case has been referred in the impugned detention order dated 08.05.2024. On perusal of the facts relating to the ground case, this Court is of the opinion that, it is insufficient to invoke Act 14 of 1982.

3.Pertinently, the detenue was arrested on 19.01.2024 and the impugned order of detention has been issued on 08.05.2024, after a lapse of about four months from the date of arrest. Thus, the very requirement of causing element of breach of public order is missing in the impugned order of detention.



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4.The apprehension of causing public disorder by the detenu is the mandatory requirement under Act 14 of 1982. When the said element is missing in the impugned order, then the Court have no option, but to assail the order of detention.

5.In this present case, the enormous delay between the date of arrest and issuance of the detention order would be sufficient to draw an inference that the detaining Authority has not applied their mind properly for the purpose of invoking Act 14 of 1982.

6.Accordingly, the impugned order of detention passed by the 2nd respondent in proceedings No.43/BCDFGISSSV/2024 dated 08.05.2024 is quashed and the Habeas Corpus Petition stands **allowed**.

[S.M.S., J.]

[V.S.G., J.]

07.08.2024

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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