



WEB COPY



HCP.No.1360 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.1360 of 2024

S.Mariyammal

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Office Avadi Commissionerate,
Avadi City, Avadi, Tiruvallur District.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai Dt.-600 066.
4. The Inspector of Police,
E-5 Choolawaram Police Station,
Tiruvallur Dt.

... 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 detainee by name Thiru



HCP.No.1360 of 2024

Kalaiselvan @ Kalai, aged 29, son of Sundarraaj, presently confined at Central 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 made in No.42/BCDFGISSSV/2024 passed by the 2nd respondent (Drug Offender), quash the same. .

For Petitioner : Mr.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 Commissioner of Police, Office of Avadi Commissionerate, Avadi City, Avadi, Tiruvallur District in proceedings No.42/BCDFGISSSV/2024, dated 08.05.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.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.



HCP.No.1360 of 2024

WEB COPY

3.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.

4.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.

5.Accordingly, the impugned order of detention in proceedings No. 42/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

gd

Page 3 of 4



WEB COPY



HCP.No.1360 of 2024

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

gd

To

1. The Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Office Avadi Commissionerate,
Avadi City, Avadi,
Tiruvallur District.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai Dt.-600 066.
4. The Inspector of Police,
E-5 Choolawaram Police Station,
Tiruvallur Dt.

H.C.P.No.1360 of 2024

07.08.2024