



WEB COPY



HCP.No.1346 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

H.C.P.No.1346 of 2024

J. Illamalli

... Petitioner/Mother of
the detenue

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Tambaram City,
Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
T-15, Kannagi Nagar Police Station,
Chennai.

... Respondents



HCP.No.1346 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the second respondent in his proceedings in No. 68/BCDFGISSSV/2024, dated 16.05.2024 and quash the same as illegal and produce the detainee, namely J.Veerakumar, S/o. Jeyakumar, aged 30 years, GOONDA now he is confined in Central Prison, Puzhal II, Chennai before this Court and set at liberty.

For Petitioner	: Mr.C.Raja
For Respondents	: Mr.E.Raj Thilak, Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 16.05.2024, is sought to be quashed in the present habeas corpus petition.

2. The learned Counsel for the petitioner would submit that the Special report served on the detainee is undated.

3. The similar case relied on by the detaining Authority, which is dated 02.01.2024 in CrI.MP.No.23 of 2024 reveals that it is a case where



HCP.No.1346 of 2024

statutory bail has been granted. The detaining Authority formed an opinion that the detainee was arrested and remanded by T-15, Kannagi Nagar Police Station in Crime Nos.129 of 2024 and 130 of 2024. He has not filed any bail petition so far. However, the sponsoring Authority has stated that one Mr. J.Veerakumar's relative is taking steps to take him out on bail in the above cases where filed bail application in an appropriate court. In a similar case in Crime No.258/2023 registered at T-10, Manimangalam P.S. under Sections 294 (b), 341, 392, 397, 506 (ii) of IPC, bail was granted to the accused therein Mr.S.Ravikumar and enlarged on bail by Principal Sessions Judge, Kancheepuram District in CrI.MP.No.4374 of 2023 on 25.08.2023.

4. First of all in the above similar case referred, the Sessions Court granted statutory bail. Therefore, the comparison itself becomes irrelevant. While relying on the similar case, the detaining Authority must arrived at a conclusion that there is likelihood of grant of bail and relying on certain cases where statutory bail is granted would not be sufficient for the purpose of invoking Act 14 of 1982.

5. In the present case, the reference reflects non application of mind on the part of the detaining Authority. Proximity nexus or link are of



HCP.No.1346 of 2024

paramount importance for the purpose of invoking preventive detention law.

Mere reference about a similar case would be insufficient and such similar case must provide a reason to believe that there is likelihood of causing breach of public order at the instance of the detainee. Mere presumption or assumption of the detaining Authority is insufficient and the materials relied on must have proximity with reference to the opinion formed, which must lead to reason to believe.

6. The reasons and the materials relied on are the live link for the purpose of invoking Act 14 of 1982, since the Act is draconian in nature and invoked merely on the presumption that a person is going to commit a crime in future. Therefore, forming an opinion must be based on complete evidence and the subjective satisfaction and a reason to believe must be based on certain materials, which must reflect nexus or proximity.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent in proceedings No. 68/BCDFGISSSV/2024 dated



HCP.No.1346 of 2024

16.05.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**.

The detenu viz., J.Veerakumar, S/o. Jeyakumar, aged 30 years, confined in Central Prison, Puzhal II, Chennai is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.] [R.S.V., J.]
23.08.2024

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

veda



HCP.No.1346 of 2024

To

WEB COPY

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Tambaram City,
Chennai.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
T-15, Kannagi Nagar Police Station,
Chennai.
5. The Public Prosecutor,
Madras High Court,
Chennai – 104.



WEB COPY



HCP.No.1346 of 2024

S.M.SUBRAMANIAM, J.
AND
R.SAKTHIVEL, J.

veda

H.C.P.No.1346 of 2024

23.08.2024