



WEB COPY



HCP.No.1406 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2024

CORAM :

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

H.C.P.No.1406 of 2024

Nithiya Kalyani

... Petitioner

Vs.

1.The State of Tamil Nadu rep by
The Secretary to Government,
Home, Prohibition and Excise Department,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4.State rep by the Inspector of Police,
V-7 Nolambur Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records of the 2nd respondent pertaining to the order made in Memo No.502/BCDFGISSSV/2024, dated 14.05.2024 in



HCP.No.1406 of 2024

detaining the detainee under the Tamilnadu Act 14/1982 as a brand of Goonda and quash the same and direct the respondents to produce the detainee the petitioner's son Jaiganesh, Son of Diwakar, aged 24 years who is detained at the Central Prison Puzhal, Chennai before this Court and set him at Liberty.

For Petitioner : Mr.S.Karthick

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 Memo No.502/BCDFGISSSV/2024, dated 14.05.2024, is sought to be quashed in the present Habeas Corpus Petition.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.The reason assigned for issuing the impugned order of detention, as stated is that the detainee is in remand in V7, Nolambur Police Station in Crime No.142 of 2024 and he has moved a bail application for Crime No.142 of 2024 before the Court of Principal District and Sessions Judge, Thiruvallur, in CrI.M.P.No.2495 of



HCP.No.1406 of 2024

2024 and the same is pending. Further, in a similar case registered at P-3 Vyasarpadi Police Station in Crime No.828 of 2017, under Sections 147, 148, 341, 294(b), 323, 307 and 506(ii) IPC bail was granted for some other accused by the Court of Sessions, Chennai, in Crl.M.P.No.9467 of 2017. Hence, the Authority inferred that, it is very likely of him coming out on bail in V-7 Nolambur Police Station in Crime No.142 of 2024, since in similarly placed cases bails are granted by Courts after a lapse of time.

4.The comparison made is remote and such a comparison, if applied for invoking Tamil Nadu Act 14 of 1982 in every case, such reason can be assigned which is not in consonance with the Act. The risk of making comparison on such remote case are that the facts of the case may differ from one to another. Therefore, the Detaining Authority while making comparison must ensure that there is some relatability or nexus for the purpose of invoking Act 14 of 1982.

5.In the present case, bail was granted to other accused by the Sessions Court, Chennai. Though comparison of similar cases is permissible, such comparison would result in forming an opinion that there is a likelihood of breach of causing public disorder. Mere comparison of similar cases would be insufficient



HCP.No.1406 of 2024

and in the present case, application of mind lacks since the reference is not made by adopting such an analogy.

6. In view of the fact that application of mind lacks, we are inclined to interfere with the detention order. Further, the detenu has undergone imprisonment for about four months. That being so, we are not inclined to continue the detention order any more.

7. Accordingly, the detention order passed by the second respondent, in Memo No.502/BCDFGISSSV/2024, dated 14.05.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jaiganesh, Son of Diwakar, aged 24 years who is detained at the Central Prison Puzhal, Chennai, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

21.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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HCP.No.1406 of 2024

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- To
- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
 - 2.The Commissioner of Police,
Greater Chennai.
 - 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
 - 4.The Inspector of Police,
V-7 Nolambur Police Station,
Chennai.
 - 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
 - 6.The Public Prosecutor,
Madras High Court



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

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