



HCP.No.1553 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM :

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

H.C.P.No.1553 of 2024

K.Aruna

... Petitioner

Vs.

- 1 State Of Tamil Nadu Rep
The Principal Secretary To Government
Home Prohibition And Excise (XVI) Department
Fort St.George, Chennai 600009.
- 2 The District Magistrate/District Collector,
Salem District, Salem.
- 3 The Commissioner Of Police
Salem City, Salem
- 4 The Superintendent Of Prison
Central Prison, Salem
- 5 The Inspector Of Police
CCB 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 pertaining to the detention order passed by the 3rd respondent in detention order in C.M.P. 52/GOONDA/SALEM CITY/2024 dated 05.06.2024 and set aside the same as



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illegal and direct the respondent to produce the body or person of the petitioner's husband namely K. Kirubakaran s/o. kulasekaran male aged about 47 years who is detained in central prison, Salem before this court and set him at liberty.

For Petitioner : Mr.P.M.Prasanth Narayanan

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 3rd respondent in proceedings C.M.P. 52/GOONDA/SALEM CITY/2024 dated 05.06.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The impugned detention order was passed mainly on the ground that the relative of Kirubakaran is taking efforts to move bail applications to take him out on bail for the adverse cases. The Detaining Authority further states that bail has been granted by the Judicial Magistrate No.5, Salem in C.M.P.No.1542 of 2023, dated 19.10.2023 for the similar case of Salem city Central Crime Branch in Crime No.24 of 2023 under Sections 419, 420, 109 and 506(ii) IPC registered against one Leninkumar, who was remanded on 20.08.2023. The said order enclosed along with the typed set of papers reveals that, an application was filed by the accused therein to enlarge him on bail under Section 167(2) of



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Cr.PC., which is a statutory bail and it is to be granted by the Court. Such statutory bail applications cannot be relied on for the purpose of invoking Act 14 of 1987. Thus, there is no application of mind on the part of Detaining Authority. Further the comparison made would be irrelevant and insufficient for the purpose of forming an opinion that there is a likelihood of breach of public order.

3. Hence, for the aforesaid reason, the detention order passed by the third respondent in proceedings C.M.P. 52/GOONDA/SALEM CITY/2024 dated 05.06.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., K. Kirubakaran s/o. Kulasekaran, male aged about 47 years, who is detained in central prison, Salem, 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.]

14.08.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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S.M.SUBRAMANIAM, J.
AND



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V.SIVAGNANAM, J.

gd

To

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- 6 The Public Prosecutor,
Madras High Court.

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