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HCP.No.1528 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.1528 of 2024

Mangammal

... Petitioner

Vs.

- 1 State Of Tamil Nadu
Rep By 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 State Rep By
The Inspector Of Police,
Choolaimedu Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the records of the 2nd
respondent pertaining to the order made in



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Memo.No.539/BCDFGISSSV/2024, Dated 20.05.2024 in detaining the detainee under the Tamilnadu Act/1982 as a brand of DRUG OFFENDER and quash the same and direct the respondents to produce the detainee, the petitioner's son Suresh, son of Munusamy, aged 31 years who is detained at the Central Prison Puzhal, Chennai before this court and set him at liberty.

For Petitioner : Mr.G.Sarath Kumar

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 reveals that one adverse case has been relied on. The ground case has been registered by F5, Choolaimedu Police Station in Crime No.161 of 2024 under Section 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act.

2.The learned counsel for the petitioner would submit that, in a similar case bail was granted, only on the ground that there was no previous case against the said accused. However, the petitioner is facing other criminal cases. Therefore, there is no likelihood of granting bail in the case of the petitioner. Thus, the authorities have not applied their mind with



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reference to the ground that there is likelihood of grant of bail to the petitioner in the criminal case.

3.That apart, the remand order dated 25.04.2024 enclosed at Pg.No.87 of the booklet served to the detenue shows certain discrepancies with the respect of the proceedings of the Special Court EC and NDPS Act, Chennai. The discrepancies in the said order creates a confusion and the said benefit of doubt is to be given to the detenue.

4.In respect of the remand order dated 25.04.2024, we found that Principal Special Court EC and NDPS Act, Chennai issued the order. The name of the Presiding Officer/Principal Special Judge has been stated in the order. However, the order has been signed by the learned XVII Judicial Magistrate, Saidapet.

5.Thus, the Registrar General, High Court of Madras is directed to secure the report with reference to the remand order in connection with the Crime No.161 of 2024 passed by the Principal Special Court EC and NDPS Act, Chennai and from the learned XVII Judicial Magistrate,



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Saidapet.

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6.The practice adopted by the Court for issuance of the remand orders, in which the remand was granted by the Judicial Magistrate is also to be ascertained and the said report is to be submitted before the Court on or before 05.09.2024.

7.In view of the fact that, the order of detention lacks application of mind and there is a discrepancy in respect of remand order dated 25.04.2024, we are inclined to quash the detention order.

8. Accordingly, the detention order passed by the second respondent in Memo.No.539/BCDFGISSSV/2024, Dated 20.05.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Suresh, son of Munusamy, aged 31 years who is detained at the Central Prison Puzhal, Chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

9.Post the matter on 05.09.2024.



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[S.M.S., J.]

[V.S.G., J.]

21.08.2024

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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Copy to

The Registrar General
High Court of Madras

S.M.SUBRAMANIAM, J.
AND



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V.SIVAGNANAM, J.

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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,
Choolaimedu Police Station,
Chennai.
- 5 The Public Prosecutor,
Madras High Court.

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