



WEB COPY



HCP.No.1573 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1573 of 2024

Abdul Kalam

... Petitioner

Vs.

1. The State Represented by
The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 9.
2. The Commissioner of Police,
Salem City,
Salem.
3. The Superintendent of Police,
Central Prison,
Salem.
4. The Inspector of Police,
Salem City PEW 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 in C.M.P.No.40/Drug



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Offender/Salem City/2024 dated 06.05.2024 on the file of the Commissioner of Police, Salem City, Salem, the second respondent herein and quash the same as illegal and direct the respondent to produce the detainee Thiru. Abdul Kareem, s/o. Kadhar Basha, aged about 23 years, now confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Ms.S.Sengkodi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

Solitary criminal case registered against the detainee is the basis for the issuance of the detention order.

2. The detainee was an intermediary and admittedly he was arrested on 14.03.2024. However, the order of detention was passed on 06.05.2024, after a lapse of about one and a half months. Thus, there is a probability of drawing a factual inference that the competent Authority has not applied their mind with reference to the criminal case registered. Mere registration of the criminal case would be insufficient to detain a person under



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prevention laws. It must be beyond the criminal case registered and but to the subjective satisfaction of the Authority that there is a likelihood of causing breach of public order.

3. That being so, the subjective satisfaction, which is to be ascertained, mere registration of one case would be insufficient to invoke the detention laws. In the present case, the delay in passing the impugned order of detention is also vital. The Authority has not exercised their powers with proper assessment of the situation and the element of likelihood of causing breach of public order. Thus, we are inclined to interfere.

4. Accordingly, the impugned order of detention in proceedings No.C.M.P.No.40/Drug Offender/Salem City/2024 dated 06.05.2024 on the file of the 2nd respondent is quashed and the Habeas Corpus Petition stands **allowed.**

[S.M.S., J.] [V.S.G., J.]

06.08.2024

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

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To

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Madras High Court.



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