



WEB COPY



HCP.No.1719 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.1719 of 2024

Pushparaj

... Petitioner

Vs.

1. State of TamilNadu Represented by
The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Mayiladuthurai District.
3. The Superintendent of Police,
Central Prison,
Thiruchirappalli.
4. The Superintendent of Police,
Mayiladuthurai District.
5. The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai.

... Respondents



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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 order of detention passed by the 2nd respondent in C.O.C.No.20/2024 dated 14.05.2024 against the petitioner's son the detenue Nagaraj aged 27 years son of Pushparaj now confined in Central Prison, Thiruchirappalli and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.K.Santhosh
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 14.05.2024 is sought to be quashed in the present habeas corpus petition.

2. The ground case was registered in Crime No.161/2024 by Mayiladuthurai Police Station.



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3. The detaining Authority states that the detainee had not filed any bail application for the ground case registered against him. However a similar case in Crime No.1278/2020, bail was granted by the District & Sessions Judge, Nagapattinam in CrI.MP.No.3089/2020. The comparison made by the Detaining Authority about the similar case of the year 2020 would be insufficient to form an opinion that there is a likelihood of causing breach of public order at this length of time.

4. The ground case was registered in the year 2024 and the similar case, which was registered in Crime No.1278 of 2020 is taken into consideration for the purpose of forming an opinion that there is a likelihood of grant of bail. Such an analyses or apprehension made by the Detaining Authority has got remote applicability and the preventive detention laws cannot be exercised based on such remote chances or apprehension. The apprehension in the mind of the detaining Authority must have close proximity with the likelihood of causing breach of public order and failing which, the very purpose and objects of preventive detention laws are either abused or incorrectly applied.



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5. In such circumstances, the Courts have to draw an inference that there is a legal malice on the part of the detaining Authority for invoking Act 14 of 1982. The nature of the cases and its relevance with reference to breach of public order has not been established and nexus between these relied cases and the grounds are live link for involving Act 14 of 1982, which is missing in the present case.

6. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings C.O.C.No.20/2024 dated 14.05.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detenue viz., Nagaraj aged 27 years son of Pushparaj now confined at Central Prison, Thiruchirappalli 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
veda



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To
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1. State of TamilNadu Represented by
The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector and District Magistrate,
Mayiladuthurai District.
4. The Superintendent of Police,
Central Prison,
Thiruchirappalli.
5. The Superintendent of Police,
Mayiladuthurai District.
6. The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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