



HCP.No.1625 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.1625 of 2024

Bargath

... Petitioner/Mother of
the detainee

Vs.

1. State of Tamil Nadu,
Represented by the Secretary,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Avadi City,
Office of the Commissioner of Police (Goondas Section),
Avadi,
Chennai - 600 054.
3. The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.



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4. The Inspector of Police,
T-12, Poonamallee 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 relating to the detention order vide no.45/BCDFGISSSV/2024 dated 14.05.2024, passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Alla Bakash, S/o. Masthan, aged 22 years, (who is presently under going detention in the Central Prison, Puzhal) before this Court and set him at liberty.

For Petitioner	: Mr.A.Tamilselvan
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 assailed in the present habeas corpus petition.



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2. The Special Report submitted by the sponsoring Authority is un-dated. That apart the adverse cases relied on with reference to Crime Nos.1294/2021, 19/2022 and 719/2022 have no close proximity. To establish likelihood of causing breach of public order, there must be a proximity with the adverse cases, which all are relied on by the detaining Authority. Certain old cases, which were pending for a long time alone cannot be a ground to invoke Act 14 of 1982. Nexus link and proximity of relied on cases are of paramount importance for the purpose of forming an opinion that there is likelihood of causing breach of public order.

3. In respect of cases, the proximity relating to adverse cases are not established, then it is to be construed as legal malice warranting interference from the hands of the High Court.

4. In the present case, since application of mind lacks in respect of relying on the adverse cases, we are inclined to interfere.



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5. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings Memo No.45/BCDFGISSSV/2024 dated 14.05.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Alla Bakash, S/o. Masthan, aged about 22 years confined at 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.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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Central Prison,
Puzhal,
Chennai.
4. The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai.
5. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
V.SIVAGNANAM, J.

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