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HCP.No.1830 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

H.C.P.No.1830 of 2024

Mythili Nisha

... Petitioner/Mother of
the detenu

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Commissioner of Police,
Greater Chennai
Office of the Commissioner of Police,
(Goondas Section), Vepery,
Chennai – 600 007.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai- 600 066.
4. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai-600 066.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records relating to the impugned order of detention passed by the second respondent in Memo No. 509/BCDFGISSSV/2024 dated 15.05.2024 and set aside the same and consequently direct the respondents to produce the detenu R.Surya, S/o. Raji aged 24 years petitioner's husband now confined at Central Prison, Puzhal, Chennai before this Court and set at liberty forthwith.

For Petitioner : Mr.J.Prakash
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 15.05.2024 is sought to be quashed in the present habeas corpus petition.

2. The ground case has been registered in Crime No.283 of 2024 under Sections, 294 (b), 323, 307, 506(ii) of IPC by M-3, Puzhal Police Station.



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3. The ground case reveals that it relates to certain financial transactions while dealing Narcotic drugs. It is also individualistic in nature.

The adverse cases relied on by the detaining Authority in Crime Nos.17 of 2021, 2293/2021 & 387 of 2022 have no close proximity with the ground case. Therefore, the opinion formed by the detaining Authority to invoke Act 14 of 1982 does not seem to be appropriate.

4. Proximity, nexus and the link to invoke preventive detention laws are of paramount importance. The subjective satisfaction of the detaining Authority should result in forming an opinion that there is likelihood of causing breach of public order and in the event of allowing the detaining Authority to invoke Act 14 of 1982 merely based on registration of crime, will lead to unconstitutionality.

5. In the case *Sama Aruna vs. State of Telangana and Another* reported in **2018 12 SCC 150**, para.22 reads as under:

"22. We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without



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a trial. The satisfaction of the authority is not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, ceases to have relevance to the subject-matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute."

6. Hence, for the aforesaid reasons, the detention order passed by the second respondent in Memo No. 509/BCDFGIISSSV/2024 dated 15.05.2024, is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., R.Surya, S/o. Raji, aged 24 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.] [R.S.V., J.]
23.08.2024

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

veda



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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai
Office of the Commissioner of Police,
(Goondas Section), Vepery,
Chennai – 600 007.
4. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai- 600 066.
5. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai-600 066.
6. The Public Prosecutor,
Madras High Court,
Chennai – 104.



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AND
R.SAKTHIVEL, J.

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