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HCP.No.1779 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1779 of 2024

Ramesh

... Petitioner

Vs.

1.State of Tamil Nadu rep. By
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai Police Commissioner,
The Commissioner Office,
Vepery, Chennai – 7.

3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai -66.

4.The Inspector of Police,
V5-Thirumangalam Police Station,
Chennai.

... 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 entire records relating to the detention order in Memo No.631/BCDFGISSSV/2024 dated 06-06-2024 passed by the 2nd Respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Nithishkumar S/o Ramesh the detenu. Now confined in Central Prison, Puzhal, Chennai before this court and set the petitioner's son Nithishkumar S/o.Ramesh aged about 21 years the detenu herein at liberty and pass such further or appropriate order which this Court may deem fit and proper in the nature and circumstances of the case and thus render justice.

For Petitioner : Mr.N.Naresh

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

ORDER

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

The petitioner herein is the son of the detenu viz., Nithishkumar S/o Ramesh the detenu, now confined in Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in Memo No.631/BCDFGISSSV/2024 dated 06-06-2024.



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2.The ground case in the detention order was registered by V-5, Thirumangalam Police Station in Crime No.293 of 2024 under Sections 341, 294(b), 336, 384, 506(ii) IPC r/w Section 3 of Tamil Nadu Property Prevention of Damage and Loss Act, 1992. One adverse case has been relied by the Detaining Authority registered by the very same Police Station in Crime No.349 of 2023 under Sections 341, 294(b), 323, 384, 506(ii) IPC. Except these two cases, there is no other criminal case registered against the detainee. Mere registration of two criminal cases would be insufficient to form an opinion that there is a likelihood of causing breach of public order.

3.Prevention detention is a regulatory measure to prevent commission of crime and balance between right to personal liberty and public order must be achieved. There should not be automatic preventive detention for all crimes registered under the Act.

4.In the present case, the detainee has involved in two cases. One ground case and one adverse case. That apart, by virtue of the impugned order of detention, he is already under imprisonment for three months. If at



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all in regular criminal case, the jurisdictional Court granted bail, the police authorities have to file an application seeking cancellation of bail or in alternate file application for imposing stringent conditions, so as to avoid any further commission of crimes. Instead, they cannot invoke preventive detention law in anticipation that there is offender may commit the crime again. Such an assumption, if made, would be based on certain strong reasons and mere statistics for registration of criminal cases is not enough for the purpose of invocation of Act 14 of 1982. If at all, bail has been granted as apprehended by the Detaining Authority, under the penal law, appropriate application may be filed to cancel the bail. That apart, police authorities may conduct surveillance on these nature of accused and initiate appropriate actions. Contrarily preventive detention law would have negative impact, since it affects the fundamental rights of a detainee including the right to earn and other livelihood.

5. In view of the aforesaid reasons, the cases relied on for issuing the impugned detention order is insufficient, the detention order passed by the second respondent in Memo No.631/BCDFGISSSV/2024 dated 06-06-2024, is hereby set aside and the Habeas Corpus Petition is allowed. The



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detenu viz., Nithishkumar S/o Ramesh the detenue, now confined in Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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To

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- 3.The Superintendent of Police,
Central Prison,
Puzhal, Chennai -66.
- 4.The Inspector of Police,
V5-Thirumangalam Police Station,
Chennai.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.

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