



WEB COPY



HCP.No.1698 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.1698 of 2024

Banu

... Petitioner/Mother of
the detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition & Excise (XVI) Department,
Secretariat,
Chennai – 600 009.
2. The Commissioner of Police,
O/o. Commissioner of Police,
Chennai City.
3. The Superintendent of Prison,
Central Prison Puzhal,
Chennai District.
4. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai.

... Respondents



HCP.No.1698 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order BCDFGISSSV.No.571/2024 dated 24.05.2024 on the file of the Respondent No. 2 and quash the same and direct the respondents to produce the body and person of Petitioner Son one named Mr.Surya S/o. Settu aged about 24 years now confined at Central Prison, Puzhal before this Court and set at liberty forthwith.

For Petitioner : Mr.P.Muthamizh Selvakumar
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 24.05.2024 is sought to be quashed in the present habeas corpus petition.

2. The ground case indicates that there is some personal motive between the accused and the complainant family and based on certain personal allegations, complaint has been registered.

3. Such individual centric allegations cannot be a ground to invoke



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preventive detention law. There must be likelihood of causing breach of public order and mere commission of crime or certain adverse cases not connected with public disorder cannot be relied upon for the purpose of invoking Act 14 of 1982.

4. 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 commission of crime will lead to unconstitutionality.

5. Personal liberty of a person being a fundamental right under Article 21 of the constitution and Article 22 imposes restrictions for invoking preventive detention laws, the Authorities are expected to be cautious and only in cases they could able to form an opinion that there is likelihood of communal issues or public disorder then alone a person is declared as “GOONDA” for the purpose detaining him under Act 14 of 1982.

6. In the present case, the ground case itself is individual centric.



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There seems some personal motive between the accused and the complainants regarding certain behaviour of the accused towards the sister of the complainant. Such cases would not be sufficient for detaining a person under Act 14 of 1982 and thus we are of the considered opinion that the detaining Authority has failed to apply mind with reference to the essential mandatory requirements under Act 14 of 1982.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent in proceedings No. BCDFGISSSV.No.571/2024 dated 24.05.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Mr.Surya S/o. Settu aged about 24 years now confined at Central Prison, Puzhal 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

To

1. The Secretary to the Government,



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Home, Prohibition & Excise (XVI) Department,
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O/o. Commissioner of Police,
Chennai City.
3. The Superintendent of Prison,
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4. The Inspector of Police,
M-3, Puzhal Police Station,
Chennai.
5. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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S.M.SUBRAMANIAM, J.
AND
R.SAKTHIVEL, J.

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