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H.C.P.No.1755 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.1755 of 2024

Rethinam

... Petitioner

Vs.

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

2.District Collector and District Magistrate,
Ariyalur District,
Ariyalur.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4.The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order in Cr.M.P.No.05/2024, dated 26.02.2024



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passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Thalapathi S/o.Rethinam aged about 34 years, the detenu, now confined in Central Prison, Thiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.P.Praveen Kumar

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

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The order of detention passed by the 2nd respondent in Cr.M.P.No.05/2024, dated 26.02.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. The learned counsel for the petitioner would submit that the detenu in the present case, Mr.Thalapathy was arrested on 25.01.2024. The detention order has been issued on 26.02.2024. The detenu is under going imprisonment under preventive detention law for about 8 months.

3. Though the learned Additional Public Prosecutor would submit that



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the detenu has involved in 53 criminal cases, only four cases are relied on for the purpose of issuing impugned detention order.

4. However, the first adverse case was registered in the year 2021 relating to Crime No.126 of 2021 under Section 397 of Indian Penal Code. Second adverse case was registered in March, 2022 and the third case in April, 2022 and fourth case in January 2024. Except one adverse case, all other three adverse cases have no close proximity with the ground case. Thus, the two criminal cases are capable of being proceeded with under the law of the land.

5. An element of public disorder is missing in the present case and therefore, this Court is of the considered opinion that the order of detention impugned became unnecessary. More so, the detenu is in prison for about 8 months and the criminal case can be dealt with in accordance with law.



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6. Accordingly, the detention order passed by the 2nd respondent in Cr.M.P.No.05/2024, dated 26.02.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thalpathi, S/o. Rethinam, aged 34 years, now confined at Central Prison, Tiruchirappalli 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.]
27.08.2024

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Index : Yes
Speaking order
Neutral Citation : Yes



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To

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- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate,
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Ariyalur.
- 3.The Superintendent of Prison,
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- 4.The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.
- 5.The Public Prosecutor,
Madras High Court.



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and
V.SIVAGNANAM, J.

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