



WEB COPY



HCP.No.1782 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

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

H.C.P.No.1782 of 2024

Abdullah

... Petitioner

*Vs.*

1. State of Tamil Nadu,  
Rep.by the Additional Chief Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,  
The Greater Chennai City,  
Vepery, Chennai 600 007.
3. The Superintendent of Prison,  
Central Prison, Puzhal, Chennai 600 066.
4. The Inspector of Police,  
S-8, Adambakkam 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 in detention order in Memo No.107/BCDFGISSSV/2024, dated 13.02.2024, passed by the 2<sup>nd</sup> respondent under



HCP.No.1782 of 2024

the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's brother in law Akbar Ali S/o. Maideen aged about 33 years the detainee, now confined in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.A.Vinoth 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 second respondent in proceedings No.107/BCDFGISSSV/2024, dated 13.02.2024, is sought to be quashed in the present Habeas Corpus Petition.

2.The order of detention is sought to be assailed mainly on the ground that the detaining authority has not applied mind with reference to the requisite conditions that the detainee is likely to be released on bail in the criminal case. The order of detention in paragraph No.4 would reveal that the detainee Thiru.Akbar Ali is in remand in S-8, Adambakkam Police Station in Crime Nos.26/2024 & 27/2024



HCP.No.1782 of 2024

and he has not moved any bail application for S-8, Adambakkam Police Station, Crime Nos.26/2024 & 27/2024 so far. However, the sponsoring authority has stated that, it is came to known that the relatives of the detainee are taking steps to take him out on bail for S-8, Adambakkam Police Station, Crime Nos.26/2024 & 27/2024.

3.Such hearsay information of the sponsoring authority regarding filing of the bail petition would be insufficient to detain a person under Act 14 of 1982. Mere presumption would be insufficient and there must be some materials available on record to establish that the bail application is filed and there is likelihood of releasing the detainee on bail by the Court. In the absence of any such evidence, hearsay information of the relatives cannot form a ground for detaining a person under the preventive detention law. That apart, Section 161 statement has been relied upon, wherein, no date has been mentioned in the said statement. When Section 161 statement has been relied upon for invoking Act 14 of 1982, it must be dated and reliance must be placed with application of mind. Since in the present case, both the elements as stated above are missing, the petitioner is entitled for the relief.

4.Consequently, the impugned order of detention in proceedings



HCP.No.1782 of 2024

No.107/BCDFGISSSV/2024, dated 13.02.2024, is quashed and the Habeas Corpus

Petition stands **allowed**. The detainee, namely, Akbar Ali, S/o. Maideen, aged about 33 years, now confined in Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

08.08.2024

sli

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To

1. State of Tamil Nadu,  
Rep.by the Additional Chief Secretary to Government,  
Home, Prohibition & Excise Department,  
Fort St.George, Chennai 600 009.
2. The Commissioner of Police,  
The Greater Chennai City,  
Vepery, Chennai 600 007.
3. The Superintendent of Prison,  
Central Prison, Puzhal, Chennai 600 066.
4. The Inspector of Police,  
S-8, Adambakkam Police Station, Chennai.
5. The Public Prosecutor, High Court, Madras.



WEB COPY



*HCP.No.1782 of 2024*

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

sli

H.C.P.No.1782 of 2024

08.08.2024