



HCP.No.1836 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.1836 of 2024

Durga

... Petitioner/Mother of
the detainee

Vs.

1. The Secretary to Government,
Government of Tamil Nadu (Home),
Prohibition and Excise Department,
Fort St.George, Chennai.
2. The District Collector and District Magistrate,
Ranipet District, Ranipet.
3. The Superintendent of Police,
Ranipet District, Ranipet.
4. The Superintendent,
Central Prison, Vellore, Vellore District.
5. The Inspector of Police,
Arcot Town Police Station,
Arcot, Ranipet District.

... 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 records relating to the impugned order B3/D.O.No.52/2024 dated 08.07.2024 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce namely Arul son of Srinivasan, aged about 32 years, now confined at Central Prison, Vellore, before this Court and set at liberty.

For Petitioner : Mr.M.Kumar

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 08.07.2024 is sought to be assailed in the present habeas corpus petition.

2. The ground case and three adverse cases relied on are registered under Section 379 of IPC. All the criminal cases registered are relating to stealing of two wheelers. Three adverse cases also relating to theft of two wheelers and the ground case also similar in nature.

3. The veracity and nature of the crime both in ground case and



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adverse case would be insufficient to detain a person under preventive detention law. Such cases can be dealt with under the penal law and the Police Authorities have to file a charge sheet and proceed with the trial as expeditiously as possible in such cases. In the event of grant of bail by the Courts, the Police may file an application seeking cancellation of bail or in alternate request the Court to impose certain stringent conditions, so as to improve surveillance about the conduct of these kinds of offenders, instead keeping under preventive detention law would not result in any benefit to the State and it will cause financial burden to the State.

4. Therefore, the detaining Authority should borne in mind that the genuinty of the ground is visible for detaining a person under preventive detention law. Mere registration of a criminal case would not constitute a ground to invoke Act 14 of 1982. Likelihood of causing breach of public order, which is a essential ingredient, which is to be satisfied and materials available on record must also lead to a reason to believe that such ground cases.

5. Hence, for the aforesaid reasons, the detention order passed by



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the second respondent in proceedings No.B3/D.O.No.52/2024 dated 08.07.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**.

The detenu viz., Arul son of Srinivasan, aged about 32 years, now confined at Central Prison, Vellore 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

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To

1. The Secretary to Government,
Government of Tamil Nadu (Home),
Prohibition and Excise Department,
Fort St.George, Chennai.
2. The District Collector and District Magistrate,
Ranipet District, Ranipet.
3. The Superintendent of Police,
Ranipet District, Ranipet.
4. The Superintendent,
Central Prison, Vellore, Vellore District.
5. The Inspector of Police,
Arcot Town Police Station,
Arcot, Ranipet District.
6. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
7. The Public Prosecutor,
Madras High Court,
Chennai – 104.



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

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