



WEB COPY



HCP.No.1972 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM :

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

H.C.P.No.1972 of 2024

Mathi

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PETITIONER

Vs

1. State of Tamil Nadu
rep. by the Secretary,
Home, Prohibition And Excise Department,
Fort St.George, Chennai - 09.
2. The Commissioner of Police/Detaining Authority,
Office of the Commissioner of Police,
Coimbatore City, Coimbatore.
3. The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.
4. The Inspector of Police,
C-4 Rathinapuri Police Station,
Coimbatore District.

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RESPONDENTS

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 detention order vide C.No.02/G/IS/2024 dated 13.01.2024 passed by the Second Respondent and quash the same and direct the respondents herein to produce the petitioner's husband, namely, M.Vijay, son of Munirathinam, aged 26 years, (who is presently under



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going detention in the Central Prison, Coimbatore) before this Court and set him at Liberty.

For Petitioner : Mr.N.Arun 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 C.No.02/G/IS/2024 dated 13.01.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.Four adverse cases are relied upon by the detaining authority for issuing the impugned order of detention. The first adverse case was registered by the Kambainallur Police Station, in crime No.58/2023 under Section 397 IPC. Second case was registered by the Pappireddipatti Police Station in Crime No.202 of 2023 under Section 457 & 380 IPC. The third case by the Morappur Police Station, in crime No.357/2023 under Sections 454 & 380 IPC. The fourth case was registered by the B2 R.S.Puram Police Station in crime No.258/2023 under Sections 457 & 380 IPC. All the cases relied on are registered in the year 2023. Pertinently, these offences does not reflect causing of public disorder and the offences can be dealt



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with under the regular penal law. The preventive detention can be moved only on the subjective satisfaction that there is likelihood of causing breach of public order. Mere involvement in a criminal case would not be a ground for invoking the preventive detention law. That apart, number of cases cannot also be a ground to invoke Act 14 of 1982. There must be material available on record that there is a possibility of causing breach of public order and in the absence of any material, invocation of preventive detention law cannot be sustained.

3.In the present case, all the adverse cases registered in the year 2023 are relating to the offences under Sections 397, 457 & 380. That being the factum, the police authorities have to prosecute the detenu under the law of land. They can contest the bail application and if bail is granted, file an application for cancellation of bail or in alternate, they can file an appropriate application for imposing stringent conditions.

4.Close surveillance of the habitual offenders are of paramount importance and the police have to have continuous **surveillance** regarding the activities of these habitual offenders in the society. Contrarily, they cannot invoke Act 14 of



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1982 with an idea to convict the alleged offenders, which impermissible since it infringes the fundamental right ensured under Article 21 of the Constitution of India.

5. Accordingly, the impugned order of detention in C.No.02/G/IS/2024 dated 13.01.2024 is quashed and the Habeas Corpus Petition stands **allowed**. The detinue, namely, M.Vijay, son of Munirathinam, aged 26 years, who is presently undergoing detention in the Central Prison, Coimbatore 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.]

28.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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