



WEB COPY



HCP.No.2042 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

and

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2042 of 2024

T. Jaya

... Petitioner

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort. St.George,
Chennai - 600 009.
2. The Commissioner of Police Greater Chennai,
Commissioner Office, (Goondas Section),
Greater Chennai, Vepery, Chennai - 600 007.
3. The Superintendent of Prisons,
Central Prison, Puzhal - II,
Chennai District, Chennai - 600 066.
4. The State
Rep. by the Inspector of Police,
H-4, Korukkupet Police Station,
Chennai - 600 021.

... Respondents



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PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records in connection with the grounds of detention Order in No.756/BCDFGISSSV/2024, dated 03.07.2024 by branded as GOONDA passed by the second respondent against the Detenu herein "ARUN" Male, aged 23 years, S/o.Thangaraj, No.46/58, Mint Subburayalu Street, Old Washermenpet, Chennai - 600 021, and now confined in Puzhal Prison-I, Chennai, based on the proposal made by the fourth respondent and this Court may be pleased to quash the same and to direct the respondents to produce the body and person of the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Vijayaraghavan
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The impugned detention order has been passed based on the ground case registered against the detenu by H-4, Korukkupet Police Station, in Crime No.262 of 2024 under Sections 341 and 307 of IPC. There



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is no adverse case relied on by the Detaining Authority. The solitary case can be proceeded with under regular law and we do not find any reason to form an opinion that there is a likelihood of causing breach of public order at the end of the detenu. In the absence of any subjective satisfaction and the materials available on record to establish the same, preventive detention law need not be invoked with an idea to convict. Such an approach of the authorities can not be appreciated by this Court. Preventive detention law being draconian has to be invoked only in the event of subjective satisfaction that there is a likelihood of causing breach of public order but not otherwise. In the present case, the ground case, which was registered under Sections 341 and 307 of I.P.C would be insufficient to form an opinion that there is a likelihood of causing breach of public order.

2. Hence, this Court is of the view that the detention order is liable to be quashed. Accordingly, the detention order passed by the second respondent in No.756/BCDFGISSSV/2024,, dated 03.07.2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz, Arun,



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S/o.Thangaraj, aged 23 years, confined at Central Prison, Puzhal, Chennai,
is directed to be set at liberty forthwith, unless he is required in connection
with any other case.

[S.M.S., J.] [V.S.G., J.]
06.09.2024

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort. St.George,
Chennai - 600 009.
2. The Commissioner of Police Greater Chennai,
Commissioner Office, (Goondas Section),
Greater Chennai, Vepery, Chennai - 600 007.
3. The Superintendent of Prisons,
Central Prison, Puzhal - II,
Chennai District, Chennai - 600 066.
4. The Inspector of Police,
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S.M.SUBRAMANIAM, J.
and
V.SIVAGNANAM, J.

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