



HCP.No.2085 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2085 of 2024

Murugalakshmi

... Petitioner/Wife
of the Detenue

Vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
O/o. The District Collector and District Magistrate,
Mayiladuthurai District.
3. The Superintendent of Police,
O/o. The Superintendent of Police,
Mayiladuthurai District.
4. The Inspector of Police,
Perambur Police Station,
Mayiladuthurai District.
5. The Superintendent of Prison,
Central Prison,
Thiruchirappalli.

... Respondents



HCP.No.2085 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order in C.O.C.No.28/2024 dated 10.07.2024 on the file of the respondent no.2 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Sivanraj, aged about 24 years son of Jaisankar now confined at Central Prison, Thiruchirappalli before this Court and set him at liberty.

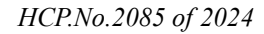
For Petitioner : Mr.U.Kathiravan
For Respondents : Mr. E. Raj Thilak
Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 10.07.2024 is sought to be quashed in the present habeas corpus petition.

2. The learned Counsel appearing on behalf of the petitioner would mainly contend that there was a delay in considering the representation submitted by the detainee under Act 14 of 1982.



4. High Court in exercise of powers of Judicial Review under s 226 in the case of habeas corpus is not expected to assess the nature



HCP.No.2085 of 2024

of the seriousness of the criminal cases registered and pending against the detainee. The cases of preventive detention are to be dealt with in accordance with the personal liberty of the detainee granted under Part-III of the constitution. Therefore, the dealing of preventive detention cases are not comparable with reference to the regular criminal cases. The cases under preventive detention stands in different footing than that of the regular criminal cases wherein the procedures are distinct and different. Thus, High Court is expected to exercise its powers meticulously to scrutinise, whether there is any lapses on the part of the detaining Authority and the power has been exercised judiciously by scrupulously following the procedures and application of mind has been made as required under law and the breach of public order likely to be caused by the detainee. It is held that mere law and order cannot be a ground to detain a person. The likelihood of causing disturbance to public order, which must be the subjective satisfaction of the detaining Authority while passing the order of detention.

5. Admittedly, in the present case, there is a delay of (06) six days in considering the representation and that is not disputed by the learned Additional Public Prosecutor. The delay in considering the representation



HCP.No.2085 of 2024

undoubtedly caused infringement of the right of personal liberty of the detainee under Article 21 of the constitution of India. Thus, the order of detention do not stand under the scrutiny of law.

6. Accordingly, the impugned order of detention on the file of the second respondent in proceedings C.O.C.No.28/2024 dated 10.07.2024 is quashed and the habeas corpus petition stands **allowed**. The detenu viz., Sivanraj, S/o. Jaisankar, aged 24/2024 years confined at Central Prison, Thiruchirappalli 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.]
12.09.2024

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



HCP.No.2085 of 2024

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The District Collector and District Magistrate,
O/o. The District Collector and District Magistrate,
Mayiladuthurai District.
4. The Superintendent of Police,
O/o. The Superintendent of Police,
Mayiladuthurai District.
5. The Inspector of Police,
Perambur Police Station,
Mayiladuthurai District.
6. The Superintendent of Prison,
Central Prison,
Thiruchirappalli.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



WEB COPY



HCP.No.2085 of 2024

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

veda

H.C.P.No.2085 of 2024

12.09.2024