



WEB COPY



H.C.P.No.2199 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2199 of 2024

Bavithra

... Petitioner

Vs.

1.Government of Tamil Nadu,
Represented by its Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Chennai,
Chennai District.

3.The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.

4.The Inspector of Police,
V3 – J.J Nagar Police Station,
Chennai District,
Crime No.309 of 2024.

... Respondents



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Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, to call for the records No.834/BCDFGISSSV/2024 dated 12.08.2024 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the petitioner's husband Thiru Yogesh @ Bonda Yogesh Aged 25 Years S/o.Kamalanathan, who is now confined in Central Prison, Puzhal, Chennai before this Court and set him at Liberty.

For Petitioner : Mr.S.Silambuselvan

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 2nd respondent in proceedings No.834/BCDFGISSSV/2024 dated 12.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.



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3.The Detaining Authority relied on three adverse cases registered in Crime No.147 of 2021 under Sections 147, 148, 302, 120(B), 323, 342, 506(ii), 149 IPC and Crime No.13 of 2024 under Sections 341, 307 r/w 34 IPC and Crime No.20 of 2024 under Sections 294(b), 427 and 506(ii) IPC. All the three adverse cases would reveal that it relates to personal vengeance and no way connected with public disorder. The criminal case registered against a person can be dealt with law of the land. The case registered on personal motive or vengeance would not attract the mandatory requirement of public disorder as contemplated under Act 14 of 1982.

4.Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law. Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law.



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5. Accordingly, the detention order passed by the second respondent in proceedings No.834/BCDFGISSSV/2024 dated 12.08.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thiru Yogesh @ Bonda Yogesh Aged 25 Years S/o.Kamalanathan, who is now confined in Central Prison, Puzhal, Chennai 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.]
14.10.2024

GD

Index : Yes

Neutral Citation : Yes

Speaking order / Non-speaking order

To

1.The Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Chennai,
Chennai District.

3.The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai.



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4.The Inspector of Police,
V3 – J.J Nagar Police Station,
Chennai District.

5.The Public Prosecutor,
Madras High Court.



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V.SIVAGNANAM, J.

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