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HCP.No.2188 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.2188 of 2024

Adilakshmi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary
to Government, Home, Prohibition
and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Commissioners Office,
Vepery Chennai.

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

4.The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Thiruvanmiyur, Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records leading to the detention of the petitioner son namely Nithyanandam, S/o.Moorthy Hindu aged about 27 years vide detention order dated 23.07.2024 on the file of the 2nd respondent herein made in the proceedings in detention order BCDFGISSSV No.793 of



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2024 and quash the same and consequently direct the respondents herein to produce the body and person of the detinue before this Court and thereafter set him at liberty from Central Prison, Puzhal.

For Petitioner : Mr.N.Gayathri

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 BCDFGISSSV No.793 of 2024, dated 23.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Based on the ground case, the order of detention has been issued. Ground case has been registered by J-6, Thiruvanmiyur Police Station in Crime No.186 of 2024 under Sections 341, 294(b), 302, 506(ii) and 120(B) IPC. Even as per the detention order, the ground case was registered with reference to the allegations in connection with previous enmity between the detinue and the victims. The said case can be dealt with in accordance with the law of the land. Preventive detention law cannot be compared with regular application of penal



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law since invocation of Act 14 of 1982 infringes right to liberty, which is a fundamental right. Therefore, the Detaining Authority is expected to be cautious while arriving at subjective satisfaction to invoke preventive detention law. Mere registration of a criminal case under Section 302 IPC would be of no ground to invoke preventive detention law. Even if a criminal case is capable of being proceeded under law of the land, then the police authorities have to proceed with the trial. If at all bail is granted by the jurisdictional Court, the police is at liberty to file petition for cancellation of bail or in alternate, to impose stringent conditions on the accused during the pendency of the trial. Invoking preventive detention law must be only on the ground, if there is a likelihood of causing breach of public order.

3. In the present case, the petitioner is facing ground case alone. Thus, reasons stated in the detention order are not justified.

4. Hence, for the aforesaid reason, the detention order passed by the second respondent in proceedings BCDFGISSSV No.793 of 2024, dated 23.07.2024 is quashed and the Habeas Corpus Petition is **allowed**. The detainee viz., Nithyanandam, S/o.Moorthy Hindu aged about 27 years, now confined in Central Prison, Puzhal is directed to be set at liberty forthwith,



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unless he is required in connection with any other case.

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[S.M.S., J.]

[N.S., J.]

20.09.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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- To
- 1.The Secretary to Government, Home, Prohibition and Excise Department,
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 - 2.The Commissioner of Police,
Commissioners Office,
Vepery Chennai.
 - 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
 - 4.The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Thiruvanmiyur, Chennai.
 - 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
 - 6.The Public Prosecutor,
Madras High Court.



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S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.

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