



HCP.No.2230 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2230 of 2024

Selvadurai

... Petitioner/Brother
of the Detenue

Vs.

1. The State of Tamil Nadu,
represented by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. State represented by
Inspector of Police,
M-3, Puzhal Police Station,
Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records of the 2nd respondent pertaining to the order made in Memo No.823/BCDFGISSSV/2024 dated 09.08.2024 in detaining the detenu under the Tamil Nadu Act 14/1982 as a brand of Goonda and quash the same and direct the respondents to produce the detenu, the petitioner's brother Vijay @ Kulla Vijay, son of Annadurai, aged 29 years, who is confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Karthick
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 09.08.2024 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 ground case in Crime No.547/2024 was registered under Section 309 r/w 311 of Bharatiya Nyaya Sanhita, 2023.

4. Perusal of the allegations set out in the complaint in the ground case reveals that it would be insufficient to form an opinion that there is likelihood of causing breach of public order.

5. One adverse case has been relied on for the purpose of invoking Act 14 of 1982. Mere registration of a criminal case would be insufficient. There must be an element of causing breach of public order, which must be established to the subjective satisfaction of the detaining Authority.

6. In the present case, we could able to form an opinion that invoking Act 14 of 1982 is unnecessary. Thus, we are inclined to interfere.



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7. Accordingly, the detention order passed by the second respondent in proceedings No.823/BCDFGISSSV/2024 dated 09.08.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Vijay @ Kulla Vijay, S/o. Annadurai confined at 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.]
01.10.2024

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

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
5. Inspector of Police,
M-3, Puzhal Police Station,
Chennai.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
V.SIVAGNANAM, J.

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