



WEB COPY



HCP.No.2244 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2244 of 2024

Krishnaveni

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai – 600 007.

3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai – 600 066.

4.The Inspector of Police,
J-3, Guindy Police Station,
Adyar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records relating to the Impugned Order of Detention passed by the second respondent in No.831/BCDFGISSSV/2024 dated 09.08.2024 and set aside the same and



HCP.No.2244 of 2024

consequently direct the respondents to produce the detenu Surya, Son of Nagarajan aged about 24 years, petitioner's son now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty forthwith

For Petitioner : Mr.P.Thompson

For Respondents : Mr.R.Muniyapparaj
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.831/BCDFGISSSV/2024 dated 09.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. 5 previous cases are relied on for the purpose of issuing the impugned order of detention. The ground case was registered in J3 Guindy Police Station in Crime No.272 of 2024 under Sections 126(2), 296(b), 309(4), 311, 324, 125, 351(3) Bharatiya Nyaya Sanhita, 2023.

3. The learned Additional Public Prosecutor would object by stating that the detenue is a habitual offender and series of theft cases are



HCP.No.2244 of 2024

registered against him.

WEB COPY

4. Mere registration of a criminal case would be insufficient to invoke preventive detention law. Preventive detention law being draconian, must be invoked sparingly, whereby the detaining authority subjectively satisfied that there is a likelihood of causing breach of public order. In order to detain a person, Act 14 of 1982 cannot be invoked and the Courts have ruled that the Preventive Detention Law causing infringement of the fundamental right of the citizen, it must be invoked cautiously and only in deserving cases. Number of criminal cases would not satisfy the element of breach of public disorder. The subjective satisfaction must be reached by the authority, so as to form such an opinion.

5. In the present case, no doubt theft cases were filed and those cases can be dealt with by police authorities under the regular penal law. Police instead of punishing a person, cannot invoke Act 14 of 1982.

6. That being the factum, the detention order passed by the second respondent in No.831/BCDFGISSSV/2024 dated 09.08.2024, is



HCP.No.2244 of 2024

hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Surya, Son of Nagarajan aged about 24 years, petitioner's son now 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.]

[M.J.R., J.]

04.11.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

gd



HCP.No.2244 of 2024

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai – 600 007.
- 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai – 600 066.
- 4.The Inspector of Police,
J-3, Guindy Police Station,
Adyar District.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.



WEB COPY



HCP.No.2244 of 2024

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

gd

H.C.P.No.2244 of 2024

04.11.2024