



HCP.No.2308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2308 of 2024

M.Nirmala

... Petitioner

Vs.

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

2.The Commissioner of Police,
Chennai City,
Office of the Commissioner of Police,
Vepery, Chennai – 600 007.

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

4.The Inspector of Police,
M-1, Madhavaram 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 pertaining to the order of detention passed by the Second Respondent herein and made in BCDFGISSSV.No.408/2024, and to set aside the same and directing 3rd respondent to produce the detainee the petitioner's son, Vinoth S/o. Manimaran now confined in Central Prison, Puzhal, Chennai before this Court and thereby setting him at liberty and pass such further or other orders as this Court deems fit and proper in the circumstances of the case.

For Petitioner : Ms.P.Shaganya
for Mr.D.Ananthapadmanabhan

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.408/2024 dated 25.04.2024 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.

3. Five adverse cases are relied upon for the purpose of invocation of



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Act 14 of 1982 by the Detaining Authority. Perusal of the order impugned would reveal that 1st case relied on was registered in Crime No.3595 of 2020 for the offences under Sections 341, 294(b), 324, 506(ii) IPC. 2nd case relied on was registered in Crime No.905 of 2021 for the offences under Sections 341, 294(b), 323, 324, 506(ii) IPC @ 341, 294(b), 323, 324, 506(ii) r/w 34 IPC. 3rd case was registered in Crime No.1505 of 2021 for the offences under Sections 341, 294(b), 323, 392, 397, 336, 427, 506(ii) IPC. 4th case was registered in Crime No.164 of 2022 for the offences under Sections 341, 294(b), 323, 397, 506(ii) IPC. 5th case was registered in Crime No.357 of 2023 for the offences under Sections 341, 294(b), 323, 392 and 506(ii) IPC. Except 5th adverse case relied on, all other relied on cases have no close proximity with the ground case. Thus, it is to be considered as stale cases and the ground case can be dealt with under the law of the land. The Detaining Authority could not able to establish that there is a likelihood of causing breach of public order and thus, the invocation of preventive detention law became unnecessary.

4.Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public



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disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law.

8. Therefore, the detention order passed by the second respondent in BCDFGISSSV.No.408/2024 dated 25.04.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vinoth S/o. Manimaran 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.]

30.09.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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- 3.The Superintendent,
Central Prison,
Puzhal, Chennai – 600 066.
- 4.The Inspector of Police,
M-1, Madhavaram Police Station,
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
V.SIVAGNANAM, J.

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