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H.C.P.No.2352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2352 of 2024

Ponmalar

... Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Prison,
Cuddalore.

4.The Inspector of Police (Law and Order),
J3 Guindy Police Station,
Chennai.

... Respondents

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



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records in connection with the order of Detention passed by the second respondent dated 23.08.2024 in No.876/BCDFGISSSV/2024 against petitioner's husband namely Sylendar @ Sylu, Male aged 30 years, S/o.Gangadaran, who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenue before the Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

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.876/BCDFGISSSV/2024 dated 23.08.2024 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.

3. The impugned detention order has been passed, relying on a criminal case registered by H-2 Guduvanchery Police Station in Crime N.10



of 2020 under Sections 341, 302, 147, 148, 120B, 342, 506(ii), 149 IPC. The learned counsel for the petitioner would submit that the ground case complaint was lodged five months prior to the registration of the complaint by the Police by registering a complaint after a lapse of 5 months from the date of complaint, the Detaining Authority invoked Act 14 of 1982. As far as the relied on cases are concerned, there is no proximity with the ground case. Since it was registered in the year 2021 and the ground case was registered after a lapse of 4 years, more specifically after a lapse of 5 months from the date of complaint by the defacto complainant. The manner in which Act 14 of 1982 has been invoked by the Detaining Authority is insufficient to form an opinion that the preventive detention law is justified.

4. We are of the considered opinion that preventive detention order is to be invoked with extreme caution and sparingly. Mere presumption of causing public disorder would be insufficient. Subjective satisfaction of the Detaining Authority is of paramount importance. There must be materials available on record to ensure that a person is to be detained urgently by invoking Act 14 of 1982. Mere registration of many number of criminal cases would be insufficient. All those cases can be dealt with by the police



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authorities under the law of the land. Even in case bail has been granted by the competent Court, police is empowered to file a petition an application seeking cancellation of bail or in alternate file application for imposing stringent conditions, so as to avoid any further commission of crimes. Effective investigation and prosecution would alone solve these kind of issues. The police authorities cannot seek any short circuit method to retain a person by invoking Act 14 of 1982. Such an idea at no circumstances be encouraged by the High Court, since it involves personal liberty, which is a fundamental rights enshrined under the Constitution of India.

5. In the present case, though several other cases are registered against the detainee, all those cases are related to the year 2009, 2010, 2011, 2012, 2014, 2015, 2016 and 2018. All those cases can be dealt with in accordance with law. Thus, we did not find the order impugned in No.876/BCDFGISSSV/2024 dated 23.08.2024 is justifiable and the same is not in consonance with the spirit of Act 14 of 1982.

6. Accordingly, the detention order passed by the second respondent in No.876/BCDFGISSSV/2024 dated 23.08.2024, is hereby set aside and the



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Habeas Corpus Petition is allowed. The detenu viz., Sylendar @ Sylu, Male aged 30 years, S/o.Gangadaran, who is confined at Central Prison, Cuddalore 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Cuddalore.
- 4.The Inspector of Police (Law and Order),
J3 Guindy Police Station,
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- 5.The Public Prosecutor,
Madras High Court.



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and
V.SIVAGNANAM, J.

GD

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