



WEB COPY



HCP.No.2382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM :

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

H.C.P.No.2382 of 2024

Kalaivani

... Petitioner/Mother of the
Detenu

Vs.

1. State of Tamil Nadu represented
by Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Vellore District.
3. The Superintendent of Police,
Vellore District.
4. The Superintendent of Prison,
District Jail,
Villupuram.
5. State represented by Inspector of Police,
Ariyoor Police Station,
Vellore.

... Respondents



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PRAAYER: 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 C3/D.O.No.76/2024 dated 04.08.2024 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 son Abi @ Abinash, Son of Sathish, aged 20 years who is detained at the District Jail, Villupuram, 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 04.08.2024 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 impugned detention order has been passed based on the ground case alone. There is no adverse case relied on for the purpose of invoking Act 14 of 1982.

4. Preventive detention law being draconian, is to be invoked only sparingly in a case, where there is likelihood of causing breach of public order. The criminal cases registered are to be dealt with under the law of the land and the Police Authorities by invoking Act 14 of 1982 cannot be allowed to punish the accused who is involved in a criminal case.

5. Registration of criminal cases would be insufficient to invoke preventive detention law. Even if bail has been granted in a ground case, the Police Authorities made file an appropriate application to cancel the bail or in alternate impose stringent conditions. Contrarily, they cannot invoke preventive detention law to detain an accused, which would affect the personal liberty, which is a fundamental right under the Constitution of India.



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6. In the present case, based on the ground case alone, the detenu is detained. Therefore, the ground stated would be insufficient to form an opinion that there is likelihood of causing breach of public order.

7. Accordingly, the detention order passed by the second respondent in proceedings C3/D.O.No.76/2024 dated 04.08.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Abi @ Abinesh, aged 20 years, S/o. Sathish confined at District Jail, Villupuram 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.]
22.10.2024

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



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To

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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 District Collector and District Magistrate,
Vellore District.
4. The Superintendent of Police,
Vellore District.
5. The Superintendent of Prison,
District Jail,
Villupuram.
6. The Inspector of Police,
Ariyoor Police Station,
Vellore.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
V.SIVAGNANAM, J.

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