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HCP.No.2442 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.2442 of 2024

Ahamed Kabeer

... Petitioner

Vs.

1.The Additional 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,
F-5, Choolaimedu Police Station,
Anna Nagar,
Chennai.

... 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



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impugned order of Detention passed by the second respondent in Memo NO.751/BCDFGISSSV/2024 dated 03.07.2024 and set aside the same and consequently direct the respondents to produce the detenu Jameel Ahamed, Son of Ahamed Kabeer, aged about 28 years, petitioner's son now confined at Central Prison, Puzhal, Chennai before this Court and set her at liberty.

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 Memo NO.751/BCDFGISSSV/2024 dated 03.07.2024 dated 03.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. The detenue has been arrested on 05.06.2024. The impugned detention order has been passed on 03.07.2024. One adverse case is relied on along with the ground case for issuing the impugned order of detention. The adverse case was registered in Crime No.68 of 2024 by J3 Guindy Police Station under NDPS Act. The ground case is also registered under the NDPS Act.



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3. The learned Additional Public Prosecutor would submit that there are previous cases registered and pending against the detainee. The details of previous cases provided in the booklet served on the detainee reveal that one case was registered under the NDPS Act by J3 Guindy Police Station in Crime No.68 of 2024. The other six cases registered against the detainee are IPC offenses. Those cases can be dealt with under the law of the land. As far as the NDPS case is concerned, the detainee was identified as a seller, not the supplier.

4. We are of the considered opinion that merely detaining small scale sellers of Narcotic drugs would not resolve the drug menace in the State. The police authorities are expected to nab the suppliers to cut the chain, so as to prevent drug related offences. Large number of cases are coming before the Courts only against small scale sellers and not against the suppliers. The Director General of Police must issue suitable instructions to the police authorities to trace out the suppliers of drugs and initiate all appropriate actions in order to control drug menace across the State of Tamil Nadu.



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5. Merely invoking preventive detention law against such small scale sellers would not resolve the issue nor this will cause public disorder as ruled by the Apex Court in the case of ***Ram Manohar Lohia v. State of Bihar***¹.

6. In order to invoke Act 14 of 1982, the likelihood of causing public order must be established and in the present case, though there are cases registered against the detainee under NDPS Act, our opinion would be insufficient to continue preventive detention law and the detainee has undergone actual imprisonment under the preventive detention law for four months.

7. In view of the facts, the detention order passed by the second respondent in Memo NO.751/BCDFGISSSV/2024 dated 03.07.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jameel Ahamed, Son of Ahamed Kabeer, aged about 28 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

¹ AIR 1966 SC 740



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connection with any other case.

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[S.M.S., J.]

[M.J.R., J.]

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Index: Yes/No

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Neutral Citation: Yes/No

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