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HCP.No.2418 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM :

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

H.C.P.No.2418 of 2024

Egavalli

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Office of Commissioner of Police
Vepery, Chennai – 7.

3.Superintendent of Police
Central Prison, Puzhal-II,
Puzhal, Chennai.

4.Inspector of Police,
D-1, Triplicane Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in memo no. 827/BCDFGGISSV/2024 passed by the 2nd respondent on 09.08.2024 on the file of the 2nd respondent and quash the same as illegal and consequently direct the



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respondent to produce the petitioner's son Appuraj, son of Nagaraj, aged about 35 years before this Hon'ble court, who now detained in Central Prison, Puzhal -II, and set him liberty.

For Petitioner : Mr.S.Shanmugam

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 memo no. 827/BCDFGGISSV/2024 dated 09.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.We have gone through the grounds of detention, which would reveal that there was some personal vengeance / motive between the parties. Further, on perusal of the facts relating to the ground case, this Court is of the opinion that, it is insufficient to invoke Act 14 of 1982.

3.Pertinently, the detenu was arrested on 14.07.2024 and the impugned order of detention has been issued on 09.08.2024. Thus, the very requirement of causing element of breach of public order is missing in the impugned order of



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detention.

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4.The apprehension of causing public disorder by the detenu is the mandatory requirement under Act 14 of 1982. When the said element is missing in the impugned order, then the Court has no option, but to assail the order of detention.

5.Accordingly, the impugned order of detention in memo no. 827/BCDFGGISSV/2024 dated 09.08.2024 is quashed and the Habeas Corpus Petition stands **allowed**. The detenu viz., Appuraj, son of Nagaraj, aged 35 years, who is confined at Central Prison, Puzhal – II, 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.]

15.10.2024

Index: Yes

Internet: Yes

Neutral Citation: Yes/No

Speaking order/Non-speaking order

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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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To

1.The Secretary
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Office of Commissioner of Police
Vepery, Chennai – 7.

3.The Superintendent of Police
Central Prison, Puzhal-II,
Puzhal, Chennai.

4.The Inspector of Police,
D-1, Triplicane Police Station,
Chennai.

5.The Public Prosecutor,
Madras High Court.

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