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HCP.No.2471 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2471 of 2024

Revathi

... Petitioner/Wife of the
Detenu

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
3. The Superintendent of Police,
Ariyalur District,
Ariyalur.
4. The Superintendent of Central Prison,
Central Prison,
Tiruchirapalli.



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5. The Inspector of Police,
Prohibition Enforcement Wing,
Ariyalur.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the 2nd respondent in Cr.M.P.No.18/2024 dated 03.07.2024 against the petitioner's husband the detenu Nagarethinam, male, aged 40 years, Son of Thangasamy is now confined in Central Prison, Tiruchirapalli and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	: Mr.M.Rajkumar
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 03.07.2024 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 learned Counsel for the petitioner would submit that the impugned order of detention has been passed mainly on the ground that the detenu filed a bail application. But the copy of the bail application has not been filed along with the booklet.

4. In the absence of any proof to establish that the detenu has filed a bail application, the detaining Authority arrived a conclusion and invoked Act 14 of 1982. The invocation of preventive detention law must be made only after arriving a subjective satisfaction and based on the materials available on record. When the material relating to bail application is not made available, the findings made therein that the detenu filed a bail application, deserves to be considered.

5. For the aforesaid reasons, the detention order passed by the second respondent in proceedings Cr.M.P.No.18/2024 dated 03.07.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Nagarethinam, aged 40/2024, s/o. Thangasamy confined at Central Prison, Tiruchirapalli is directed to be set at liberty forthwith, unless his



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confinement is required in connection with any other case.

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[S.M.S., J.] [V.S.G., J.]
19.10.2024

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,
Ariyalur District,
Ariyalur.
4. The Superintendent of Police,
Ariyalur District,
Ariyalur.
5. The Superintendent of Central Prison,
Central Prison,
Tiruchirapalli.
6. The Inspector of Police,
Prohibition Enforcement Wing,
Ariyalur.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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