



WEB COPY



HCP.No.2561 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2561 of 2024

P.Gokila

... Petitioner/wife of the detenu

Vs

1. The Secretary to Government
Government of Tamilnadu,
Home, Prohibition and Excise IX,
Secretariat , St.George Fort ,
Chennai-600 009.
- 2 The Commissioner of Police,
Detaining Authority, Coimbatore City
Coimbatore.
- 3 The Superintendent of Prison,
Central Prison, Coimbatore.
- 4 The Inspector Of Police
B-5 Vadavalli Police Station,
Coimbatore.

... Respondents



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Prayer : Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus to call for the records of the 2nd respondent in reference to (Detention Order in C.No.88/G/IS/2024 dated 30.07.2024 setting aside the order of detention passed therein and directing the respondents to produce the detenu by namely Thiru Giri@Prasanth S/o.Balan aged about 30 years before this Honble Court, now detained in Central Prison at Coimbatore and setting him at liberty.

For Petitioner : Mr. J. Pradeep

For Respondents : Mr.R. Muniyapparaj
Additional Public Prosecutor

ORDER

(Order of the Court is made by *S.M.SUBRAMANIAM, J.*)

The order of detention passed by the Commissioner of Police, Coimbatore City, in C.No.88/G/IS/2024 dated 30.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Three adverse cases are relied on along with the ground case for the purpose of issuing the impugned detention order. The adverse cases registered against the detenu are in Crime No.190 of 2024, under Section 454, 457 & 380 IPC, in Crime No.195 of 2024 under Sections 457 & 380 IPC, in Crime no.199 of 2024 under Section 379 IPC. The three adverse cases are registered on



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24.06.2024, 28.06.2024 and 30.06.2024. The manner, in which, the adverse cases are registered by the same police station , namely, Coimbatore City, B5 Vadavalli Police Station, raises a doubt whether these cases are registered genuinely or otherwise.

3. The ground case was registered on 05.07.2024 and we are of the considered opinion that all the cases can be dealt with under the law of the land. Preventive detention law being draconian is to be invoked sparingly when the detaining authority subjectively satisfied that there is likelihood of causing breach of public order. Mere registration of the criminal cases would be insufficient to invoke the Preventive Detention Law. No person can be punished without trial and Preventive Detention Law provides scope for the authority to punish a person without undergoing trial. Thus, the power to punish is conferred to the detaining authority under the Preventive Detention Law and this exactly is the reason why the Constitutional Courts Time and again emphasized that Preventive Detention Law has to be invoked sparingly only when the authority is subjectively satisfied. The subjective satisfaction must be based on the materials available on record and mere presumption would not be sufficient for invoking Act 14/1982.



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4. In the present case, we are not completely convinced with the adverse cases relied on and the manner in which those cases are registered by the same police station. Though the cases presumed to be genuine it can be dealt with under the regular penal law. That being the factum, the grounds for detention are neither candid nor convincing and we are inclined to interfere

5. Hence, for the aforesaid reason, the detention order passed by the second respondent in C.No.88/G/IS/2024 dated 30.07.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Giri@Prasanth S/o.Balan, aged 30 years, now confined at Central Prison, Coimbatore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

07.11.2024

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

mrp



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High Court, Madras.



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