



WEB COPY



HCP.No.2563 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.2563 of 2024

Devi

... Petitioner

Vs

1. State represented by its
Home Secretary to the Government of Tamil Nadu,
Home Prohibition and Excise Department,
Fort. St.George,
Chennai - 600 009.
 - 2 The Commissioner Of Police
Greater Chennai,
Chennai - 600 003.
 - 3 The Inspector of Police,
P-6 Kodungaiyur Police Station,
Chennai - 13.
 - 4 The Superintendent of Prison ,
Central Prison,
Puzhal Chennai.
- ... Respondents



HCP.No.2563 of 2024

Prayer - Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus to call for the records in relating to the order of detention passed by the 2nd Respondent dated 19.06.2024 in No.682/ BCDFGISSSV/2024 against the petitioner's, son the detenu, Siva @ China son of Ram Bagathur , male, aged about 24 yrs, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Honble Court and set him at Liberty.

For Petitioner : Mr. N. Nishar Ahamed

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, Greater Chennai, Chennai, in No.682/ BCDFGISSSV/2024 dated 19.06.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Five 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.664/2022, under Section 379 @ 457, 380 r/w.34 IPC, in Crime No.825/2022 under Sections 461, 380 @ 457 & 380 r/w.34 IPC, in Crime no.131/2023 under Section 457, 380 @ 457 & 380 r/w.34 IPC, in



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Crime No.174/2023 under Sections 457 & 380 IPC and in Crime No.285/2024

under Section 379 IPC. The five adverse cases are registered on 29.09.2022, 10.12.2022, 01.04.2023, 02.04.2023, and 02.05.2024. The manner, in which, the adverse cases are registered, raises a doubt whether these cases are registered genuinely or otherwise.

3. The ground case was registered on 01.06.2024 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 No.682/ BCDFGISSSV/2024 dated 19.06.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Siva @ China, son of Ram Bagathur, aged 24 years, now confined at Central Prison, Puzhal, Chennai, 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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