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H.C.P.No.2619 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2619 of 2024

Kala

W/o Ettiappan

..

Petitioner

v.

1. State of Tamil Nadu represented by
The Secretary to Government
Department of Home, Prohibition & Excise
Secretariat, Fort St.George, Chennai

2. The Commissioner of Police
Greater Chennai
Office of Commissioner of Police
Vepery, Chennai 600 007

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

4. Inspector of Police
C-2, Elephant Gate Police Station
Chennai

..

Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records in Memo No.961/BCDFGISSSV/2024 passed by the 2nd respondent on 16.09.2024 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce petitioner's son Yuvaraj @ Uppili, Son of Ettiappan, aged about 30 years, before this Hon'ble Court, who is now detained in Central Prison, Puzhal-II and set him at liberty.

For Petitioner :: Mr.A.Elumalai

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 second respondent in Memo No.961/BCDFGISSSV/2024 dated 16.09.2024 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.

3. The impugned detention order has been passed relying on three adverse cases and the ground case. In respect of first two adverse cases, which were registered in the year 2023, they have no proximity with the



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ground case. The third adverse case was registered by C-2 Elephant Gate Police Station in Crime No.122 of 2024 and the ground case also was registered by C-2 Elephant Gate Police Station in Crime No.169 of 2024.

4. The learned counsel for petitioner would submit that the incident narrated in the ground case is false and no such occurrence took place. In support of his submission, he referred to the third adverse case, which was also registered by the same police station, wherein the offence under Section 397 was registered on the ground that the detenu took a sum of Rs.450/- from the shirt pocket of the complainant. As far as the ground case is concerned, the detenu had taken a sum of Rs.350/- from the shirt pocket of the complainant.

5. Perusal of the third adverse case, as stated in the detention order, reveals that on 15.06.2024 at 14.00 hours, the detenu went to Ayyanar Tea Stall at No.112, Wall Tax Road. Without paying money for the food taken, he threatened the complainant Thiru.Govindan, cashier of the tea stall asking to give money to meet out their expenses. It is not made clear whether the



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detenu had not paid money for the food taken or he demanded money from the cashier of the tea stall. Similarly, perusal of the ground case reveals that the complainant was one Mr.Velmurugan and he is running Ganesh Bhavan Tiffin Centre at No.73, Wall Tax Road. The third adverse case was also in Wall Tax Road and the ground case was also in Wall Tax Road. There also, the facts as stated by the respondents would reveal that the detenu demanded money for consuming alcohol. He has taken away Rs.350/- from the shirt pocket of the complainant.

6. The facts as narrated both in the third adverse case and the ground case raise serious suspicion and even in such circumstances, the cases registered can be dealt with by the authorities under the regular penal law. We are not offering any opinion with reference to the facts as narrated in the adverse cases or in the ground case and those cases are to be dealt with in accordance with law and by conducting a proper trial before the competent Court. As far as invoking the preventive detention law is concerned, we are not satisfied with the manner in which the Act 14 of 1982 has been invoked by the detaining authority. In view of these facts and circumstances, we are



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inclined to interfere with the impugned detention order.

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7. Accordingly, the detention order passed by the second respondent in proceedings No.961/BCDFGISSSV/2024 dated 16.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Yuvaraj @ Uppili, S/o Ettiappan, aged 30 years, now confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(M.J.R.,J.)

Neutral citation : yes/no

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SS

To

1. The Secretary to Government
Department of Home, Prohibition & Excise
Fort St.George, Chennai 600 009
2. The Commissioner of Police
Greater Chennai
Office of Commissioner of Police
Vepery, Chennai 600 007
3. Superintendent of Prison
Central Prison, Puzhal-II
Puzhal, Chennai



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4. Inspector of Police
C-2, Elephant Gate Police Station
Chennai

5. The Public Prosecutor
High Court, Madras



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S.M.SUBRAMANIAM,J.

AND

M.JOTHIRAMAN,J.

SS

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