



H.C.P.No.2820 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2024

CORAM :

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

H.C.P.No.2820 of 2024

K.Monika
W/o M.Kamal

.. Petitioner/
Wife of the Detenue

v.

1. The State of Tamil Nadu
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police /Detaining Authority,
Coimbatore City,
Coimbatore District.
3. The Superintendent of Prison,
Coimbatore Central Prison, Coimbatore.
4. The Inspector of Police,
B5, Vadavalli Police Station,
Coimbatore City, Coimbatore District.

.. Respondents



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Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus to call for the records leading to the detention of M.Kamal, Son of Main aged about 38 years under the Act 14/1982 vide detention order dated 30.07.2024 on the file of second respondent made in proceedings in C.No.87/G/IS/2024 quash the same consequently direct the respondents herein to produce the detenu M.Kamal, Son of Mani aged about 38 years, who is lodged at Central Prison, Coimbatore District.

For Petitioner :: Mr.C.D.Sugumar
For Respondents :: Mr.R.Muniyapparaj
 Additional Public Prosecutor
 for R1 to R4

ORDER

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

The order of detention passed by the Commissioner of Police, Coimbatore City, in C.No.87/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



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454, 457 & 380 IPC, in Crime No.195 of 2024 under Sections 454 & 380 IPC, in Crime No.199 of 2024 under Section 379 IPC. The three adverse cases are registered on 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



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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.

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.87/G/IS/2024 dated 30.07.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Kamal S/o.Mani, aged 38 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.

Index : yes
Neutral citation : yes/no
rka

(S.M.S.,J.) (M.J.R.,J.)
28.11.2024



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5. The Public Prosecutor
High Court, Madras



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