



HCP.No.2652 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2652 of 2024

Porkkodi

... Petitioner/Father of the
detenue

Vs.

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. District Collector and District Magistrate,
Vellore District, Vellore.
3. The Superintendent of Police,
Vellore District, Vellore.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police,
All Women Police Station,
Vellore & District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 16.07.2024 C3/D.O.No.41/2024 against the petitioner's son Selvakumar, Male, aged 33 years S/o. Porkkodi, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	: Mr.P.Raman
For Respondents	: Mr. R.Muniyapparaj Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*) 3.

The preventive detention order passed by the second respondent in proceedings dated 16.07.2024 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 for the respondents.



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3. The preventive detention order impugned has been issued based on the solitary case registered against the detenu under the POCSO Act. No adverse case has been relied upon nor the learned Additional Public Prosecutor could establish that the detenu is a habitual offender and his activities are leading to public disorder warranting invocation of Act 14 of 1982. No doubt, the alleged offence is heinous in nature. However, there is no adverse case relied on against the detenu while invoking Act 14 of 1982. The ground case can be dealt with under the law of the land.

4. Personal liberty being a fundamental right enshrined under the Constitution of India, it may be taken away only with the Authority of Law. Personal liberty can be curtailed only after trial and by following due process of law. Preventive detention law being draconian and colonial, it is to be invoked sparingly to maintain public order. Thus, subjective satisfaction of the detaining Authority is of paramount importance. Subjective satisfaction on presumption would be insufficient but must be based on materials available on record. The power to punish a person cannot be vested with the Police Authorities and its abuse will result in serious consequences.

5. In the present case based on the solitary case, the impugned



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order of detention has been passed. We are of the considered opinion that the reasons stated in the order impugned would be insufficient to form an opinion that there is likelihood of causing breach of public order.

6. Accordingly, the detention order passed by the second respondent in proceedings C3/D.O.No.41/2024 dated 16.07.2024, is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Selvakumar, aged 33 years, S/o. Porkkodi, confined at Central Prison, Vellore 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.]
08.11.2024

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



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To

WEB COPY

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. District Collector and District Magistrate,
Vellore District, Vellore.
4. The Superintendent of Police,
Vellore District, Vellore.
5. The Superintendent of Prison,
Central Prison, Vellore.
6. The Inspector of Police,
All Women Police Station,
Vellore & District.
7. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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AND
M.JOTHIRAMAN, J.

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