



WEB COPY



HCP.No.2712 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

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

H.C.P.No.2712 of 2024

Mohanraj

...

Petitioner

Vs

- 1 The State Of Tamil Nadu
Rep By Its Secretary To Government,
Home, Prohibition And Excise Department,
Secretariat, Chennai 600 009.
- 2 The Commissioner Of Police
Greater Chennai Chennai.
- 3 The Inspector Of Police
P-1 Pulianthope Police Station Chennai.
- 4 The Superintendent
Central Prison Puzhal Chennai.

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Respondents



HCP.No.2712 of 2024

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to petitioner's brother detention under TamilNadu Act 14 of 1982 vide detention order dated 18.09.2024 on the file of the second respondent herein made in proceedings No.965/BCDFGISSSV/2024 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Joswa (a) Ramesh , aged 26 years, S/o.Suresh before this Honble High Court and set him at liberty now petitioner's brother detained at Central Prison, Puzhal, Chennai-600 066.

For Petitioner	: Mr.V. Parthiban, for Mr.C.C.Chellappan
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 second respondent ref No.965/BCDFGISSSV/2024 dated 18.09.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Four adverse cases are relied on along with the ground case for issuing the impugned order of detention. First two adverse cases are registered in the year



HCP.No.2712 of 2024

2022 and have no proximity with the ground case. Other two adverse cases though registered in the year 2024, the investigations are in progress. Ground case was registered under Section 109 BNS (307 IPC).

3. The ground case can be dealt with by the police authorities under the law of the land. The ground case is based on certain personal dispute and would not satisfy the element of breach of public order. The Preventive Detention Law being draconian is to be invoked sparingly only when there is likelihood of breach of public order. Mere registration of a criminal case would be insufficient to invoke Act 14 of 1982. Beyond registration of criminal case an element of public disorder is to be traced out to the subjective satisfaction of the detaining authority. In the absence of any material on record to establish the likelihood of causing breach of public order, invoking Act 14 of 1982 became unnecessary and in the present case, the cases registered against the detenu shall be dealt with under the regular penal law.

4. Hence, for the aforesaid reason, the detention order passed by the second respondent ref No.965/BCDFGISSSV/2024 dated 18.09.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Joswa (a) Ramesh,



HCP.No.2712 of 2024

S/o.Suresh, aged 26 years, now confined at Central Prison, Puzhal, Chennai-600

066, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

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

[S.M.S., J.] [M.J.R., J.]
10.12.2024

To

1. The Secretary To Government,
Home, Prohibition And Excise Department,
Secretariat, Chennai 600 009.
- 2 The Commissioner Of Police
Greater Chennai Chennai.
- 3 The Inspector Of Police
P-1 Pulianthope Police Station Chennai.
- 4 The Superintendent
Central Prison Puzhal Chennai.
- 5 The Public Prosecutor,
High Court, Madras.

