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HCP.No.2763 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM :

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

H.C.P.No.2763 of 2024

Vaishnavi

... Petitioner /wife of the detenu

Vs

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Commissioners Office,
Vepery, Chennai.
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Inspector of Police,
V-5, Thirumangalam Police Station,
Thirumangalam, Chennai

.... Respondents



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PRAYER: 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 the detenu namely, Mukesh @ Mukeshkannan, S/o. Palaiyan, Hindu, aged about 25 years, vide detention order dated 09.10.2024 on the file of the 2nd respondent herein made in the proceedings in detention order No.1034/BCDFGISSSV/2024 and quash the same and consequently direct the respondents herein to produce the body of the detenu before this Court and set him at liberty from Central Prison, Puzhal, Chennai.

For Petitioner	: Mr. T. Maha Vishnu
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 in No.1034/BCDFGISSSV/2024 dated 09.10.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. No adverse case has been relied upon by the detaining authority while



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issuing the impugned order of detention under Act 14 of 1982. Based on the ground case, the detention has been made. Regular IPC offences can be dealt with under the law of the land and for invoking the Preventive Detention Law, more specifically, Act 14 of 1982, likelihood of causing breach of public order is to be established and the detaining authority must have subjective satisfaction with reference to the materials made available on record. Preventive Detention Law, being draconian, to be invoked sparingly only in deserving cases and circumstances, where there is likelihood of public disorder, but not otherwise.

3. In the present case, the learned Additional Public Prosecutor would submit that the detenu is facing six criminal cases.

4. However, all those cases are related to IPC offences, which can be dealt with under the regular penal law.

5. In view of the facts and circumstances, we do not find any compelling reasons for invoking Act 14 of 1982 and consequently, we are inclined to consider the present petition.

6. Hence, for the aforesaid reason, the detention order passed by the second respondent in No.1034/BCDFGISSSV/2024 dated 09.10.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Mukesh @ Mukeshkannan, S/o. Palaiyan, aged 25 years, confined at Central Prison, Puzhal, Chennai, is



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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.]

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

mrp

To

1. The Secretary to Government
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Commissioners Office,
Vepery, Chennai.
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Inspector of Police,
JV-5, Thirumangalam Police Station,
Thirumangalam, Chennai
5. The Public Prosecutor,
High Court, Madras.

S.M.SUBRAMANIAM, J.

AND

M.JOTHIRAMAN, J.

mrp



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