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H.C.P.No.2803 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM :

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

H.C.P.No.2803 of 2024

Palani

S/o Varadharajan

.. Petitioner

v.

1. The Secretary to the Government
Home, Prohibition & Excise (XVI) Department
Secretariat, Chennai 600 009
2. The Commissioner of Police
Greater Chennai
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai District
4. The Inspector of Police
V3, J.J Nagar Police Station
Chennai District

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order in BCDFGISSSV No.941/2024 dated



H.C.P.No.2803 of 2024

12.09.2024 on the file of the Respondent No.2 and quash the same and direct the Respondents to produce the detenu / Petitioner's son one named Mr.Siva, S/o Palani, aged about 25 years, now confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

For Petitioner :: Mr.P.Muthamizh Selvakumar

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 proceedings No.941/BCDFGISSSV/2024 dated 12.09.2024 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. Based on one adverse case registered in Crime No.102 of 2023 for the offence under Sections 341, 294(b), 324, 506(ii) IPC read with 34 IPC and the ground case registered in Crime No.377 of 2024 under Section 103 of Bharatiya Nyaya Sanhita, 2023, the impugned detention order has been



H.C.P.No.2803 of 2024

issued against the detenu. However, the ground case relates to an offence due to previous enmity, which cannot be brought under the definition of causing breach of public order, which is an essential requirement for invoking the Act 14 of 1982. The adverse case also can be dealt with by the authorities under the regular penal law. Preventive detention law being draconian is to be invoked sparingly, if the detaining authority arrived at the subjective satisfaction that there is a likelihood of causing breach of public order. In order to punish an accused involved in criminal case, the provisions of Act 14 of 1982 need not be invoked. This exactly is the reason why the Constitutional Courts have time and again reiterated that the preventive detention law, being violative of personal liberty, which is the fundamental right of citizens, has to be invoked cautiously and only in deserving cases. Since the adverse case and the ground case against the detenu can be dealt with under the law of the land, the preventive detention law became unnecessary. For the aforesaid reasons, we are inclined to interfere with the impugned detention order.

4. Accordingly, the detention order passed by the second respondent



H.C.P.No.2803 of 2024

in proceedings No.941/BCDFGISSSV/2024 dated 12.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Siva, S/o Palani, aged 25 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

27.11.2024

ss

To

1. The Secretary to the Government
Home, Prohibition & Excise (XVI) Department
Secretariat, Chennai 600 009
2. The Commissioner of Police
Greater Chennai
Vepery, Chennai 600 007
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai District
4. The Inspector of Police
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5. The Public Prosecutor



High Court, Madras

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S.M.SUBRAMANIAM,J.

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H.C.P.No.2803 of 2024

27.11.2024