



WEB COPY



HCP.No.3015 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.3015 of 2024

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... Petitioner/Daughter of the detenu

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Erode District,
Erode.
- 3.The Superintendent of Police,
Erode District,
Erode.
- 4.The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.



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5.State rep.by its

The Inspector of Police,
Kavundapadi Police Station,
Erode District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's father detention under Tamil Nadu Act 14 of 1982 vide detention order dated 26.07.2024 on the file of the second respondent herein made in proceedings Cr.M.P.No.40/Sexual Offender/2024/C1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's father namely Nallasamy, S/o. Palaniyappa Muthaliyar, aged 64 years before this Honble High Court and set the petitioner's father at Liberty from detention now the petitioner's father detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

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 Cr.M.P.No.40/Sexual Offender/2024/C1 dated 26.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. The Detention order impugned has been issued based on the ground case,



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which was registered under the Protection of Children from Sexual Offences Act, 2012 Act. There is no adverse case relied on for the purpose of invoking Preventive Detention Law. The ground case can be dealt with by the Police authorities under the Law of the land. The detenu is already in imprisonment under the Preventive Detention Law for about 6 ½ months.

3. Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law. Preventive detention law being a draconian, should be applied sparingly and in a case where there is a likelihood of causing public disorder. Mere registration of criminal case would be insufficient to invoke preventive detention law.

4. Considering the fact that the impugned detention order has been passed based on a solitary case registered against the detenu and he has already suffered preventive detention for about 6 ½ months, we are inclined to consider the present petition.

5. Accordingly, the impugned order of detention passed by the 2nd



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respondent in Cr.M.P.No.40/Sexual Offender/2024/C1 dated 26.07.2024 is quashed

and the Habeas Corpus Petition stands **allowed**. The detenu, namely, Nallasamy, S/o. Palaniyappa Muthaliyar, aged 64 years, now confined in Central Prison, Coimbatore, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

06.12.2024

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

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
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Fort St.George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Erode District,
Erode.
- 3.The Superintendent of Police,
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4. The Superintendent of Prison,
Central Prison-Coimbatore,
Coimbatore District.

5. The Inspector of Police,
Kavundapadi Police Station,
Erode District.

6. The Additional Public Prosecutor,
Madras High Court.



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