



HCP.No.3109 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

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

H.C.P.No.3109 of 2024

John @ Moolakadai John
Petitioner

...

Vs

- 1 State Of Tamil Nadu,
Rep. By its Secretary to the Government,
Prohibition And Excise Department,
Fort St.George,
Chennai - 600 009.
- 2 The Commissioner of Police,
Greater Chennai,
Chennai.
3. The Inspector of Police,
P-6 Kodungaiyur Police Station,
Thiruvallur
4. The Superintendent of Prison,
Central Prison,



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Puzhal, Chennai

... Respondents

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the Memo No.1084/BCDFGISSSV/2024 dated 24.10.2024 on the file of the 2nd respondent herein and set aside the same and direct the Respondents herein to produce the Detenue John @ Moolakadai John Son of Punniyakodi aged 29 years , now confined in the Central Prison, Puzhal , Chennai before the Honble Court and set him at Liberty.

For Petitioner - Mr.Charles Kamalesh M.Appaji

For Respondents - Mr.R.Muniyapparaj,
Additional Public Prosecutor

ORDER

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

Challenging the detention order passed by the second respondent in proceedings No.1084/BCDFGISSSV/2024 dated 24.10.2024.

2. Three adverse cases and the ground case are relied on for the purpose of issuing the impugned detention order. The first adverse case was registered in the year 2020 and has no proximity with the ground case.



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Perusal of adverse case no.2 and 3 reveals that the alleged offences were occurred on the same day at about 19.45 hours and 20.00 hours respectively. The said two adverse cases raise suspicious circumstances. As far as the ground case is concerned, the fact reveals that cash of Rs.800 /- from the pocket of the defacto complainant was robbed and the case was registered in Crime No.701 of 2024. These cases can be dealt with by the police authorities under the ordinary law of the land. The Commissioner of Police, Chennai has to look into the nature of cases before issuing the order of detention.

3. Mere registration of criminal case would be insufficient to invoke Act 14 of 1982. Plain reading of the facts in adverse case nos.2 and 3 raises serious doubt and the ground case is also about taking out a sum of Rs.800/- from the pocket of the defacto complainant. When such nature of cases are placed for consideration before the detaining authority, the authority must look into the facts and ascertain the genuinity of those cases and thereafter take a decision whether to invoke At 14 of 1982 or not. Routine approach in such matters infringing the fundamental right of a



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citizen at no circumstances be approved by the Courts. Preventive Detention

Law being draconian is to be invoked sparingly only in cases where there is likelihood of causing breach of public order and it cannot be utilized for the purpose of punishing a person, who has involved in criminal case. Number of criminal cases registered would be insufficient the element of likelihood of causing breach of public order is necessary and the public order has been defined elaborately by the Apex Court in the case of **Ram Manohar Lohiya**.

4. In the present case, we do not find any such compelling reasons for the detaining authority to invoke Act 14 of 1982. Regarding the first adverse case registered in Crime No.836 of 2020 under Sections 341, 294(b), 336, 427, 397, 506(ii) IPC, the status of the case is still under investigation for the past 4 years, the criminal case registered is under investigation, this also to be looked into by the Commissioner of Police, Chennai and all appropriate actions are to be initiated in such nature of cases, where investigations are not completed the cases are not taken on file and trial is postponed without any valid reason before the Court of law.



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5. Instead of invoking Act 14 of 1982, the police authorities must concentrate on completion of investigation, collection of material evidences and conduct trial for the purpose of convicting the offenders. They cannot adopt short circuit methods for the purpose of punishing a person, who has involved in a criminal case by invoking Act 14 of 1982. .

6. Hence, for the aforesaid reason, the detention order passed by the second respondent in No. 1084/BCDFGISSSV/2024 dated 24.10.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., John @ Moolakadai John, S/o. Punniyakodi, aged 29 years, confined at Central Prison, Puzhal , Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index	:	Yes/No	[S.M.S., J.]	[M.J.R., J.]
Speaking Order	:	Yes/No	18.12.2024	
Neutral Citation	:	Yes/No		

mrp

