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H.C.P.No.3192 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.01.2025

CORAM :

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

H.C.P.No.3192 of 2024

A.Puvi @ Gopinath

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai, Office of the Commissioner of Police,
Vepery, Egmore – 600 007.

3.The Superintendent of Prison,
Central Prison at Puzhal, Chennai – 066.

4.The Inspector of Police,
K-2, Ayanavaram Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in detention order in No.1110/BCDFGISSSV/2024 dated 06.11.2024 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the petitioner/detenu A.Puvi @ Gopinath, S/o.Anandhan, aged 25



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years now confined in Central Prison at Puzhal, chennai before this Court and set him at liberty.

For Petitioner : Mr.M.Mohamed Saifulla

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

(Order of the Court was made by *M.JOTHIRAMAN, J.*)

The order of detention passed by the 2nd respondent in proceedings No.1110/BCDFGISSSV/2024 dated 06.11.2024 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. The remand order relied by the detaining authority is not enclosed in the typeset of paper. Thus, the detainee has been deprived of submitting representation in an effective manner.

4. The ground case has been registered in Crime No.268 of 2024 for the offences under Sections 191(2), 296(b), 115(2), 118(1), 109 and 351(3)



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of BNS, 2023. The case can be dealt with by the police authorities under ordinary law in force. The Detaining Authority could not able to establish that there is a likelihood of causing breach of public order and thus, the invocation of preventive detention law became unnecessary.

5. 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.

6. The Hon'ble Supreme Court of India, in the case of ***Rekha vs. State of Tamil Nadu through Secretary to Government and Another***¹, has dealt with a situation, where the Detention Order is passed without an application of mind. In case, any of the reasons stated in the order of detention is non-existent or a material information is wrongly assumed, that will vitiate the Detention Order. When the subjective satisfaction was irrational or there was non-application of mind, the Hon'ble Supreme Court held that the order of detention is liable to be quashed. The relevant paragraphs 10 and 11 are extracted hereunder;

¹ [2011 (5) SCC 244]



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“10. In our opinion, if details are given by the respondent authority about the alleged bail orders in similar cases mentioning the date of the orders, the bail application number, whether the bail order was passed in respect of the co-accused in the same case, and whether the case of the co-accused was on the same footing as the case of the petitioner, then, of course, it could be argued that there is likelihood of the accused being released on bail, because it is the normal practice of most courts that if a co-accused has been granted bail and his case is on the same footing as that of the petitioner, then the petitioner is ordinarily granted bail. However, the respondent authority should have given details about the alleged bail order in similar cases, which has not been done in the present case. A mere ipse dixit statement in the grounds of detention cannot sustain the detention order and has to be ignored.

11. In our opinion, the detention order in question only contains ipse dixit regarding the alleged imminent possibility of the accused coming out on bail and there was no reliable material to this effect. Hence, the detention order



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in question cannot be sustained.”

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7. Hence, mere satisfaction would be insufficient to invoke preventive detention law. The subjective satisfaction must have nexus, link and proximity relating to the adverse cases relied on. Perusal of the records in the present case would reveal that the similar case relied on is not actually similar. Thus, there is no application of mind and the detention order in the present case, is liable to be quashed.

8. Accordingly, the detention order passed by the second respondent in Proceedings No.1110/BCDFGISSSV/2024 dated 06.11.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., A.Puvi @ Gopinath, S/o.Anandhan, aged 25 years now confined in Central Prison at Puzhal, chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.] [M.J.R., J.]
22.01.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To

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- 1.The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Office of the Commissioner of Police,
Vepery, Egmore – 600 007.
- 3.The Superintendent of Prison,
Central Prison at Puzhal, Chennai – 066.
- 4.The Inspector of Police,
K-2, Ayanavaram Police Station,
Chennai.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.



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AND
M.JOTHIRAMAN, J.

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