

(2004) 03 MAD CK 0055

In the Madras High Court

Case No : Habeas Corpus Petition No. 48 of 2004

Vasanth

APPELLANT

Vs

The District Magistrate and the District Collector and The
State

RESPONDENT

Date of Decision : 31-03-2004

Acts Referred:

Citation : (2004) 03 MAD CK 0055

Hon'ble Judges : S.R. Singharavelu, J;P. Sathasivam, J

Bench : Division Bench

**Advocate : K. Manivasakam, for the Appellant; A. Navaneethakrishnan,
Assistant Public Prosecutor, for the Respondent**

Final Decision : Allowed

Judgement

S.R. Singharavelu, J.—Paramasivam has been detained under the provisions of Tamil Nadu Act 14 of 1982 by an order dated 6-12-2003

passed by the District Collector, Perambalur while considering that his activities are prejudicial to the maintenance of public order and public

health. Besides 4 adverse cases under Tamil Nadu Prohibition Act, the ground case, the occurrence of which has taken place on 15-11-2003,

was also found under Tamil Nadu Prohibition Act.

2. Learned counsel for the detenu pointed out that there was no compelling necessity for passing the detention order inasmuch as the detaining

authority has never shown himself felt the imminent possibility of detenu coming out of bail. Although such terminology was used in the order of

detention, in the language of English while it was translated in Tamil, and a copy was supplied to the detenu, it was simply stated that there is only

possibility of detenu coming out of bail. This Tamil version does not show the

mind of the detaining authority in getting apprehended that the detenu would be enlarged on bail and there is every imminent possibility therefor. There is a larger distinction between possibility of coming out of bail and imminent possibility of coming out of bail. The mere possibility of coming out of bail might not have invited any authority to pass any detention order, unless it is shown in his mind that he was having compelling necessity to pass the detention order and that compelling necessity was available in respect of the detenu as his imminent possibility of coming out of bail was not found in the Tamil language. It touches the subjective satisfaction of the authority and the opportunity for the detenu enabling himself to make effective representation. Therefore, the order gets vitiated. Accordingly, the petition is allowed and the order of detention is set aside and the detenu is directed to be set at liberty forthwith from the custody unless his detention is required for any other cause.