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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-07-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP CrI. No. 1286 of 2025

AND

WPMP CRL. Nos. 618 & 619 OF 2025

Dilipkumar
S/o.Viswanathan,
CT No. 10544,
Confined at Central Prison
Coimbatore, Coimbatore-18.

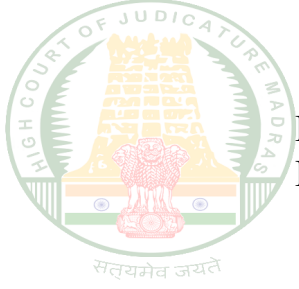
..Petitioner(s)

Vs

- The State Represented by its,
1. The Additional Chief Secretary to Government of Tamilnadu, Home Department, (Prison -IVA), Fort St. George, Chennai - 600 009.
 2. The Superintendent, Coimbatore Central Prison, Coimbatore.

..Respondent(s)

Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorarified Mandamus to call for the records made in G.O.(D)No.1475 Home (Prison -IVA) department, Chennai - 600 009, dated 06.12.2024, passed by the 1st respondent and to quash the same and consequently direct the respondents to release the detenue, Dilipkumar, S/o.Viswanathan, aged 42 years, convict prisoner, bearing Convict No. 10544 at Central Prison, Coimbatore and pass such further or other order as this Hon'ble Court.



For Petitioner(s):
For Respondent(s):

Mr.S.Pandiyan
Mr.A.Amarnath,
Counsel For Government Of Tamil Nadu
(Criminal Side)

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Order

(Order of the Court was made by Dr.Anita Sumanth J.)

The challenge in this writ petition is by the convict himself to an order dated 06.12.2024, wherein his request for early release has been rejected.

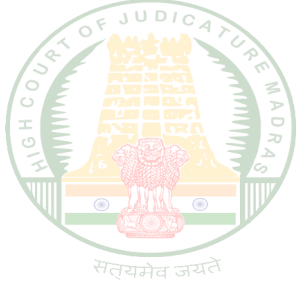
2. The application of the convict was premised on G.O.Ms.No.430, Home (Prison IV-A) Department, dated 11.08.2023, where there was a move for premature release of convicts who had completed 10 years of incarceration.

3. As on date when the impugned order was passed, the authority records that the convict had completed 16 years 6 months and 16 days of actual imprisonment. The offence committed, and for which the convict has been sentenced, was abduction of a 2½ year old female child, who the convict had strangled, stealing her ornaments. It is based on the heinous nature of the crime committed, that the request for early release has come to be rejected.

4. There is no indication in the impugned order that any other parameter touching upon the adjudication of an early release application has been applied by the authority. We had thus, on 17.06.2026, noted as follows:-

Heard-in-part.

2. We have also perused the file produced before us which contains the proceedings of the Government in considering the plea for early release. Though we are impressed with the application of mind shown at various stages, one aspect that



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has been omitted is with regard to reformation of the convict, particularly seeing the length of sentence he would serve.

3. As on the date of conviction (24.09.2007), the convict was around 22 years and today he is around 42 years. Assuming normal longevity, the convict would spend another 30 to 40 years in prison without any hope of a normal life. In fact, normal, as far as the convict is concerned, would be, a state of incarceration. A bleak prospect indeed.

4. In Manikandan V. The State and Ors.(W.P.No.2068 of 2024 and W.M.P.Nos.2223 and 2225 of 2024 dated 02.08.2024), the Court has referred to the judgment in Shor V. State of Uttar Pradesh and Anr. (2020 SCC Online SC 626) setting out relevant parameters for consideration of a plea for early release, being (i) period of incarceration, (ii) age of convict, (iii) convict's conduct in prison, (iv) whether the convict has displayed any remorse (v) prospect of reintegration into society and (vi) threat, if any, posed by the convict, to society.

5. Let separate reports be furnished by the (i) Superintendent of Prisons, Coimbatore and (ii) Probation Officer in regard to the above aspects, prior to the next date of hearing.

6. List on 29.06.2026.

5. Today, Mr.Amarnath circulates Form 2 which is the report of the Probation Officer. The report includes, inter alia, the report of enquiry made with the mother of the victim child. She has pragmatically stated that retaining the convict in jail would not bring her daughter back to life and she hence, has not put forth any objection to the premature release sought for.

6. There are other observations in the Report that should have been taken into account by the authority in considering the request of the convict.

7. The report of the police officer is also now available. In rejecting the request, the authority has simply gone on the basis of the nature of the offence



committed by the convict, to the exclusion of any other parameter.

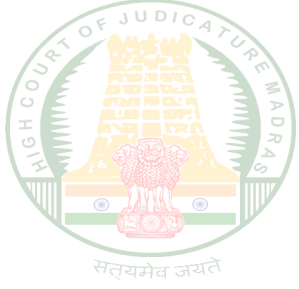
8. In a batch of cases in *Settu @ Manickam v The Additional Chief Secretary to Government, Home (Prison - IVA) Department, Secretariat, Fort St. George, Chennai-600009 and others*¹ while dealing with similar orders that had proceeded solely on the basis of the heinous offence committed by the convicts, we had quoted the judgment of the Hon'ble Supreme Court in the case of *Joseph v State of Kerala*², as follows:-

“16. The basis of an order considering a plea for premature release thus cannot be unitary in its consideration, proceeding solely on the nature of offences committed by the convict, but has also to take into account the aspects of their reformation and rehabilitation. This is what the judgment in Joseph has to say, on that account:

‘Numerous judgments of this court, have elaborated on the penological goal of reformation and rehabilitation, being the cornerstone of our criminal justice system, rather than retribution. The impact of applying such an executive instruction/guideline to guide the executive’s discretion would be that routinely, any progress made by a long-term convict would be rendered naught, leaving them feeling hopeless, and condemned to an indefinite period of incarceration. While the sentencing courts may, in light of this court’s majority judgment in Sriharan (supra), now impose term sentences (in excess of 14 or 20 years) for crimes that are specially heinous, but not reaching the level of ‘rarest of rare’ (warranting the death penalty), the state government cannot – especially by way of executive instruction, take

¹ 2026 : MHC 2750

² 2023 SCC OnLine 1211

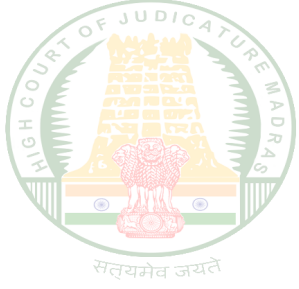


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on such a role, for crimes as it deems fit.'

17. The Court, referring to Articles 72 and 162 of the Constitution in matters of remission, commutation etc., says that those powers cannot be caged in the form of guidelines that are inflexible. In fine, the conclusion is that typecasting a convict through guidelines that are inflexible, based on crimes committed by them in the past, may well result in the real danger of overlooking the reformatory potential of the individual. This point is best elaborated in the words of the Court that reads as follows:-

'33. Classifying - to use a better word, typecasting convicts, through guidelines which are inflexible, based on their crime committed in the distant past can result in the real danger of overlooking the reformatory potential of each individual convict. Grouping types of convicts, based on the offences they were found to have committed, as a starting point, may be justified. However, the prison laws in India – read with Articles 72 and 161 - encapsulate a strong underlying reformatory purpose. The practical impact of a guideline, which bars consideration of a premature release request by a convict who has served over 20 or 25 years, based entirely on the nature of crime committed in the distant past, would be to crush the life force out of such individual, altogether. Thus, for instance, a 19 or 20 year old individual convicted for a crime, which finds 27 (2007) 13 SCC 606 place in the list which bars premature release, altogether, would mean that such person would never see freedom, and would die within the prison walls. There is a peculiarity of continuing to imprison one who committed a crime years earlier who might well have changed totally since that time. This is the condition of many people serving very long sentences. They may have killed someone (or done something much less serious, such as commit a narcotic drug related offences or be serving a life sentence for other nonviolent crimes) as young individuals and remain

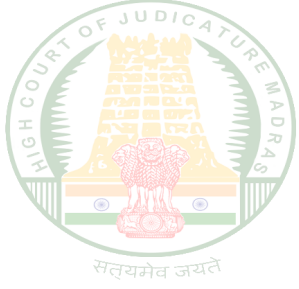


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incarcerated 20 or more years later. Regardless of the morality of continued punishment, one may question its rationality. The question is, what is achieved by continuing to punish a person who recognises the wrongness of what they have done, who no longer identifies with it, and who bears little resemblance to the person they were years earlier? It is tempting to say that they are no longer the same person. Yet, the insistence of guidelines, obdurately, to not look beyond the red lines drawn by it and continue in denial to consider the real impact of prison good behaviour, and other relevant factors (to ensure that such individual has been rid of the likelihood of causing harm to society) results in violation of Article 14 of the Constitution. Excluding the relief of premature release to prisoners who have served extremely long periods of incarceration, not only crushes their spirit, and instils despair, but signifies society's resolve to be harsh and unforgiving. The idea of rewarding, a prisoner for good conduct is entirely negated.'

18. On an examination of the impugned orders in the present cases, we find that the rejections are based solely on the basis of the offences committed. There is no examination of their conduct while in incarceration, the remorse, if any, shown of their past acts, assessment, if any, of whether, and how they could contribute to society if released, perception of threat that they may pose to society and other relevant parameters.

19. We find that while some of the petitioners before us have completed over 10 years, some have served more than 11, 12, 15, 17 and even 20 years of sentence, and it is necessary that a detailed assessment and evaluation, of the above, and other relevant parameters be made in course of deciding the applications for premature release. We are informed by the respondents that the State is presently in the throes of formulating a policy specifically to deal with early release in cases of convicts who have committed heinous crimes against women.



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20. Hence, we set aside the present impugned orders, permitting the convicts to re-submit applications for premature release that will be considered in line with applicable Government Orders read with the salutary principles enshrined in *Joseph's case*.”

9. Since, in the present case as well, the adjudication on the part of the authorities focuses solely on his past conduct, without taking note of other relevant parameters, we set aside the impugned order and direct the authorities to address themselves yet again to the application of the petitioner for early release, this time, bearing in mind the principles enshrined in *Joseph's case*. Let orders be passed within a month from date of receipt of a copy of this order.

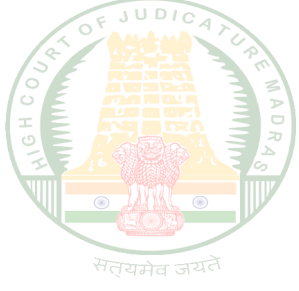
10. This writ petition stands allowed in terms of this order. No costs. Connected miscellaneous petitions are closed.

(A.S.M, J.) (S.M, J.)
27-07-2026

Index: Yes/No
Speaking order
Neutral Citation: Yes
SSM

To

1. The Additional Chief Secretary to Government of Tamilnadu, Home Department, (Prison -IVA), Fort St. George, Chennai - 600 009.
2. The Superintendent, Coimbatore Central Prison, Coimbatore.
3. The Public Prosecutor, High Court, Madras.



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SUNDER MOHAN, J.

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