



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2015

CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.10 of 2014

Subramani @ Thaadikaran

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Secretary to
Government, Home, Prohibition
& Excise Department
Secretariat, Chennai 600 009.

2.The Additional Director
General of Police &
I.G. of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.

3.The Superintendent of Prison,
Central Prison,
Vellore.

... Respondents

Prayer:- This Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying for a writ of Habeas Corpus directing the respondents to produce the petitioner/detenu, namely Subramani @ Thaadikaran, Son of Chinnsamy, Life Convict, aged about 58 years, now confined in the Central Prison, Vellore, before this Court and further directing the respondent to consider the petitioner immediately for premature release and set him at liberty forthwith.

For Petitioner : Mr.M.Radhakrishnan for
Mr.P.Pugalenthi

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor



ORDER

(Order of the Court made by S.TAMILVANAN,J.)

The petitioner, who is the detenu, namely, Subramani @ Thaadikaran, Son of Chinnasamy, Life Convict Prisoner No.11155, aged about 58 years, has come forward with this petition praying to direct the respondents to consider his case immediately under G.O.Ms.No.1155 for premature release and set him at liberty.

2. Learned counsel for the petitioner submitted that the petitioner/detenu has already undergone 23 years of imprisonment and the petitioner is entitled to get pre-mature release as per G.O.Ms.No.1155 Home (Prison-IV) Department dated 11.09.2008. In the said Government Order, it is specifically stated as follows:

"In the interest and welfare of the prisoners and on the occasion of the Birth Centenary of Peraringnar Anna on 15.09.2008, the Government have decided that all the life convicts

(i) who have completed 7 years of actual imprisonment as on 15.09.2008 (ii) who are aged 60 years and above and have completed 5 years of actual imprisonment as on 15.09.2008.

may be released prematurely subject to the satisfaction of the following conditions:-

(i) That the following categories of prisoners will not be eligible for this concession:-

a) The prisoners who are convicted for the offences specified in G.O.(Ms) No.1762, Home dated 20.07.1987.

b) the prisoners who were awarded death penalty and whose sentence was later commuted to life imprisonment by the appellate Court and the prisoners who committed offences on religious prejudices.

(ii) That their general behaviour in the prison should be satisfactory.

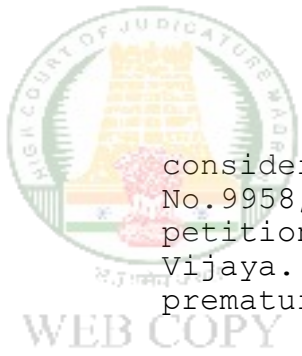
(iii) That the life of the convict would be safe if released;

(iv) That they would be accepted by the members of their family or any other social organization which can give guarantee for the safety of their lives.

(v) That their cases should not come under section 435 Cr.P.C. and

(vi) That they will execute the bonds as per usual terms and conditions.

The learned Counsel for the petitioner producing G.O.Ms.No.1158, Home (Prison-IV) Department, dated 19.12.2013 submitted that following the Government Order in G.O.Ms.No.1155 dated 19.12.2013, the Government has already



considered the case of his wife Pakka @ Vijaya, Life Convict No.9958, who has been convicted and sentenced along with the petitioner herein and ordered for premature release of Pakka @ Vijaya. Hence, he prays to give the said treatment of premature release to the detenu.

3. Learned Additional Public Prosecutor submits that the petitioner was convicted under Section 392 read with 397 of IPC (Central Act XLV of 1860) and it may falls under condition 1(a) i.e. ineligible for premature release, laid down in the G.O. He further contended that a prisoner sentenced to life imprisonment is bound in law to serve the life term in prison and life imprisonment prisoner cannot claim, as a matter of right, for premature release and he has also contended that based on the para-5 of the affidavit, the third respondent has forwarded a proposal to the Additional Director General of Police for considering the premature release of the petitioner/detenu on humanitarian ground on 26.11.2012 and the same was forwarded to Government on 27.11.2012 and therefore, premature release of the petitioner will be considered with due process of law and therefore, a writ petition has been filed by the petitioner in W.P.No.22616/2008 which is pending, has to be dismissed as infructuous. Hence he prays to dismiss the present petition.

4. We are not satisfied with the said submission made by the learned Additional Public Prosecutor. Article 13 (2), 14 and 21 of the Constitution of India which read as follows:

"Article 13 (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Article 14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law."

Further, having considered the case of the co-accused, namely, Pakka @ Vijaya, who is the wife of the petitioner herein, the Government has considered her case and ordered for premature release. Therefore, we are of the opinion that the petitioner, who is a convicted person, is also entitled to get premature release as on that of the co-accused.



5. Accordingly, this Habeas Corpus Petition is allowed and the petitioner/detenu [Life Convict No.11155] who is confined in the Central Prison, Vellore, is directed to be released forthwith in terms of G.O.Ms.No.1155, Home [Prison-IV], dated 11.09.2008.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Home, Prohibition & Excise Department
Fort St. George, Secretariat, Chennai 600 009.

2.The Additional Director General of Police &
I.G. of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.

3.The Superintendent of Prison,
Central Prison,
Vellore.

4. The Public Prosecutor,
High Court, Chennai.

+ 1 cc to M/s. P. Pugalenth, Advocate Sr.51172

HCP.No.10/2014

MP(CO)
EU 27.10.15