

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R. SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

HCP.No.1760/2014

G.Susi Thangasamy

..Petitioner

Versus

1.The Secretary to Government
State of Tamilnadu
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The Additional Director General of Prisons
Gandhi Irwin Road,
Egmore, Chennai 600 008.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents to produce the petitioner's husband namely T.Thangasamy, son of Thiraviam, aged about 65 years, life convict - C.T.No.5499, confined in the Central Prison, Palayamkottai, Tirunelveli District before this Court and further directing the respondents to consider the petitioner's husband immediately for premature release on medical grounds and set him at liberty.

For Petitioner : Mr.P.Pugalenthi

For Respondents : Mr.A.N.Thambidurai

Additional Public Prosecutor

ORDER

[Order of the Court was made by R.SUDHAKAR, J.,]

The above petition has been filed by the petitioner/wife of the detenu/life convict Thangasamy, son of Thiraviam, life convict No.5499, who is confined in the Central Prison, Palayamkottai, Tirunelveli District, to cause production of her husband before this Court and to consider his case for premature release on medical grounds.

2 Heard the submissions of the learned counsel appearing for the petitioner and Mr.A.N.Thambidurai, learned Additional Public Prosecutor appearing for the respondents and also perused the counter affidavit filed before this Court.

3 As evidenced from the counter affidavit filed and as per the submission made by the learned Additional Public Prosecutor, the case of the petitioner's husband/detenu was forwarded by the 1st respondent to the 2nd respondent, who in turn, has forwarded the same to the Superintendent of Central Prison, Palayamkottai, with a direction to take appropriate action. The Superintendent of Central Prison has also forwarded the request to the Government through the 2nd respondent and since the proposal sent by the 2nd respondent was not in order, as required under Rule 632 and 633 of the Tamil Nadu Prison Rules, 1983, the 2nd respondent was requested to send the proposal in correct format and the same is yet to be received. It is the further submission of the learned Additional Public Prosecutor that as and when, the proposal from the 2nd respondent is received in proper format, the same will be considered by the Government.

4 For better appreciation, paragraph 6 of the counter affidavit is extracted below:-

.....
[6] With regard to the averments made in paragraph [5] of the affidavit, it is submitted that, the prisoner's wife has submitted a petition to the 1st respondent seeking to release her husband on medical grounds as per rule 632 and 633 of Tamil Nadu Prison Rules, 1983 and the same was forwarded by the 1st respondent to the 2nd respondent for consideration. The 2nd respondent forwarded the same to the Superintendent, Central Prison, Palayamkottai to take appropriate action with a copy marked to the petitioner. The Superintendent, Central Prison, Palayamkottai has initiated action on the request of the petitioner and the proposal for the release on medical grounds was forwarded to the Government by the 2nd respondent. Since the proposal sent by the Additional Director General of Police/Inspector General of Prisons was not in complete shape as required under Rule 632 and 633 of the Tamil Nadu Prison Rules, 1983, the 2nd respondent has been requested to send the proposal in complete shape along with relevant

documents to the Government. On receipt of the proposal from the 2nd respondent, the proposal will be considered by the Government...."

5 Recording the submissions made by the learned Additional Public Prosecutor and the statement made in the counter affidavit, in particular, paragraph No.6, this Habeas Corpus Petition is disposed of and the 2nd respondent is directed to forward the proposal in the prescribed form as required under Rules 632 and 633 of the Tamil Nadu Prison Rules, 1983 to the 1st respondent and the 1st respondent, on receipt of such proposal, shall consider the same and pass orders on merits and in accordance with law.

sd/
ASSISTANT REGISTRAR(CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

- 1.The Secretary to Government
State of Tamilnadu
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.The Additional Director General of Prisons
Gandhi Irwin Road,
Egmore, Chennai 600 008.
- 3.The Superintendent of Central Prisons
Palayamkottai, Tirunelveli District.
- 4.The Public Prosecutor
High Court, Madras.

+1 CC to MR.P.Pugalthi Advocate. SR.NO. 61134

HCP.No.1760/2014

CO-SAI
JD 20/11/2015