

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.12.2015

CORAM

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

HCP.No.712/2014

Mr.S.Senthil

... Petitioner

Versus

- 1.The Secretary to Government
Home and Prison Department,
Government of Tamil Nadu
Fort St George, Chennai 600009.
- 2.The Inspector General of Prisons
Government of Tamil Nadu
Chennai 600 008.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirapalli.
- 4.The Inspector of Police
Kunnam Police Station, Perambalur District.

...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 body of the petitioner's father Mr.Settu, son of Mr.Gurunathan, from Central Prison, Trichirappalli, before this Court and set him at liberty as per rule 631 of the Tamil Nadu Prison Manual.

For Petitioner : Mr.A.Sirajudeen

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

ORDER

[Order of the Court was made by P.N.PRAKASH, J.,]

The above petition has been filed by the petitioner/son of the detenu/life convict Settu, son of Gurunathan, life convict No.17112, who is confined in the Central Prison, Trichy, to cause production of his father before this Court and to set him

at liberty on the basis of Rule 631 of the Tamil Nadu Prison Manual.

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 dated 26.09.2014 and the additional counter-affidavit dated 16.10.2015 filed on behalf of the respondents.

3 It is the case of the petitioner that his father, who is a life convict and aged about 77 years, is suffering from eye impairment and therefore, he deserves to be released prematurely. Learned counsel for the petitioner relied upon Rule 631 of the Tamil Nadu Prison Manual in support of his plea.

4 The respondents have filed counter affidavit dated 26.09.2014 wherein it has been stated that the detenu has actually undergone only 6 years and 6 months of imprisonment as on the date. Further, as regards the ailment, it has been stated in paragraph 6 of the counter as follows:-

"6..... The above convict was examined by the Prison Doctor on 05.03.2014 and certified that, he is known case of systemic Hypertension/CVA/Refractory error with Cataract and on continuous medical treatment in Prison Dispensary. The Government Hospital, Trichy the Ophthalmologist Department had advised for Cataract surgery after control of his Blood Pressure and also stated in his report that Cataract disease of eye is curable. For refractory error, he should wear power glass.."

It is evidenced from the additional counter affidavit dated 16.10.2015 filed by the 3rd respondent that a letter dated 15.10.2015 was addressed by the Superintendent of Prisons, Central Prison, Trichy to the learned Public Prosecutor of this Court stating that when the detenu was referred to Mahatma Gandhi Memorial Government Hospital, Trichy on 13.10.2015 for cataract surgery, the Chief and Head of the Department has issued a Discharge Summary stating that the patient/detenu is not willing for surgery. He was further referred to K.A.P.Viswanatham Government Medical College Hospital, Trichy, on the same day, where also the detenu was unwilling to undergo the cataract surgery. A Discharge Summary dated 15.10.2015 has been issued by the Chief and Head of the Department, Ophthalmologist Department, KAPV Government Medical College Hospital, Trichy. It is also stated in the counter affidavit that the premature release of the life convict will be considered in due process of law.

5 In such circumstances, we find that the petitioner is being give best treatment in the Ophthalmologist Department, Government Hospital, Trichy and further the detenu is not qualified for premature release as on date.

6 Accordingly, the Habeas Corpus Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP
To

- 1.The Secretary to Government
Home and Prison Department,
Government of Tamil Nadu
Fort St George, Chennai 600009.
- 2.The Inspector General of Prisons
Government of Tamil Nadu
Chennai 600 008.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirapalli.
- 4.The Inspector of Police
Kunnam Police Station, Perambalur District.
- 5.The Public Prosecutor
High Court, Madras.
- 6.The Dean,
Ophthalmologist Department,
Government Hospital, Trichy

+1 cc to Mr.A.Sirajudeen Advocate sr.67912

HCP.No.712/2014

aa04/01/2016