

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2015

C O R A M

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

AND

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Habeas Corpus Petition No.3111 of 2013

Manokaran
S/o.Mariyappa Gounder

... Petitioner

-vs-

1.The State of Tamil Nadu,
represented by the
Secretary to Government,
Home, Prohibition and 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,
Coimbatore.

... 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 brother viz., Natarajan S/o.Mariyappa Gounder, aged about 51 years, Life Convict No.69948, confined at Central Prison, Coimbatore, before this Court and directing the respondents to treat the petitioner's brother as having become eligible for premature release under G.O.Ms.1155, Home (Prison-IV) Department dated 11.09.2008 and to consider him for premature release and set him at liberty.

For Petitioner : Mr.P.Pugalenth
For Respondents: Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner, who is the brother of Natarajan S/o.Mariyappa Gounder, life convict (69948), aged about 51 years, has filed this petition seeking a direction to respondents to treat the petitioner's brother as having become eligible for premature release under G.O.Ms.1155, Home (Prison-IV) Department dated 11.09.2008 and to consider him for premature release.

2. Petitioner's brother, hereinafter referred to as the accused, is a life convict. He was tried in S.C.No.59 of 1994 on the file of learned I Additional Sessions Judge, Coimbatore, for offences u/s.498-A and 302 IPC. Under judgment dated 01.11.1994, the trial Court convicted the accused and sentenced him to undergo life imprisonment for offence u/s.302 IPC and 3 years R.I. for offence u/s.498-A IPC. Appeal against his conviction in C.A.No.666 of 1994 was dismissed by this Court under judgment dated 16.04.2003.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor.

4. Learned counsel for petitioner submits that on the Birth Centenary of the former Chief Minister of Tamil Nadu, Perarisingar Annadurai, Government formulated a scheme for premature release of convicts. G.O.(Ms)No.1155, Home (PRI.IV) Department, dated 11.09.2008, was issued in keeping therewith. It is submitted that as on 15.09.2008, the accused had undergone seven years of imprisonment and hence, he was entitled to release thereunder. However, he wrongly stands denied such relief.

5. It is the contention of the State that G.O.Ms.No.1762, Home (Prisons VI) Department, dated 20.07.1987, informed a scheme for premature release and also spelt out the nature/class of cases to which the same would not be applicable. Though such offence did not list out an offence u/s.498-A IPC under the ineligible category, the subsequent G.O.(Ms) No.785, Home (Prison V) Department, dated 27.03.1996 made persons convicted of offences u/s.498-A IPC ineligible for premature release.

6. This Court has considered the rival submissions and perused the materials available on record.

7. It is undisputed that the accused had, as on the date of G.O.(Ms)No.1155, Home (PRI.IV) Department, dated 11.09.2008, suffered imprisonment for a period of seven years. Therefore, but for suffering any disqualification, he would have been entitled to premature release. G.O.(Ms)No.1155, Home (PRI.IV) Department, dated 11.09.2008, is clear on terms. It specifically informs that persons who are ineligible for premature release in keeping with G.O.Ms.No.1762, Home (Prisons VI) Department, dated 20.07.1987, could not be so released. Conspicuously missing therein is the reference to G.O.(Ms) No.785, Home (Prison V) Department, dated 27.03.1996. The respondent State attempts to inform the application of such Government Order by implication. We do not agree. Holding that the accused who has completed seven years of imprisonment as on 15.09.2008 falls within the first category wherein prisoners were directed to be released upon completion of actual imprisonment of seven years as on 15.09.2008 and that the accused suffers no disqualification as informed in G.O.(Ms)No.1155, Home (PRI.IV) Department, dated 11.09.2008, this Court allows this petition.

This Habeas Corpus Petition is allowed. The accused Natarajan S/o.Mariyappa Gounder, aged 51 years, life convict No.69948, confined at Central Prison, Coimbatore, is directed to be released forthwith, unless he is required in connection with any other case.

Sd/-
Assistant Registrar
True Copy
Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Additional Director General of Police &
I.G. of Prisons,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.

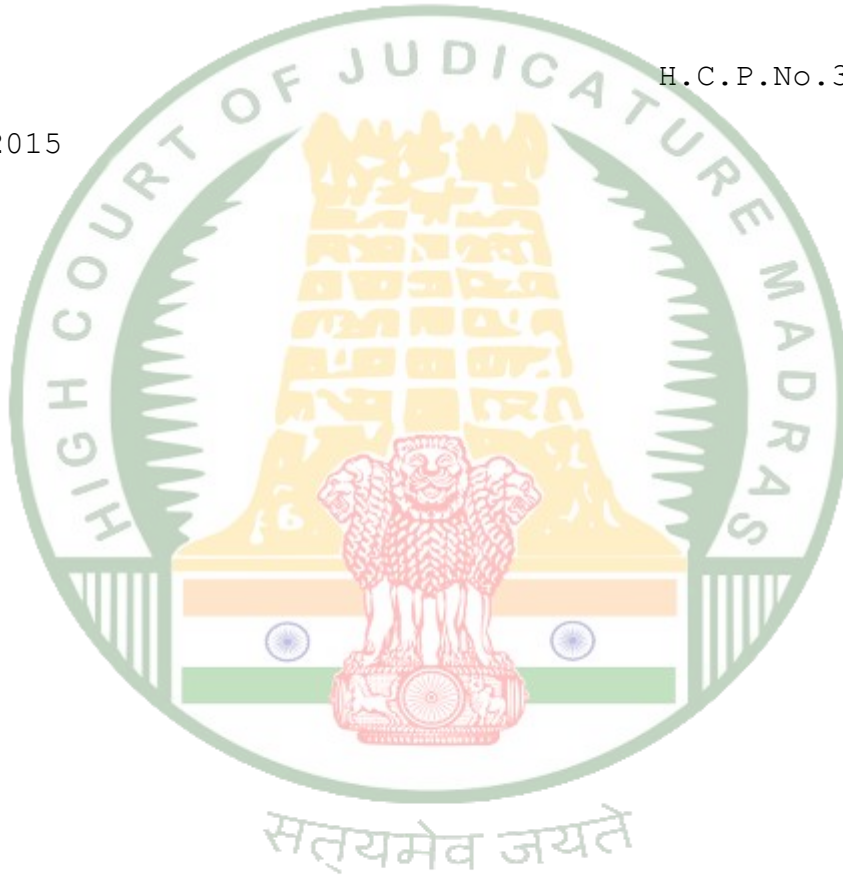
3.The Superintendent of Prison,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Chennai.

+1 cc to Mr.P.Pugalenthii,Advocate(sr.48352)

ctk(co)
cp 28/10/2015

H.C.P.No.3111 of 2013



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