

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.3433 of 2013

Mariammal ... Petitioner

vs.

1. Government of Tamil Nadu
represented by its
Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai - 600 009.
2. The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Superintendent of Central Prison,
Puzhal, Chennai. ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of habeas corpus directing respondents herein to produce the body of the detenu Sekar, Life Convict No.5264, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty as having become eligible for premature release by virtue of G.O.Ms.No.1155, Home (Prison IV) Department, dated 11.09.2008.

For Petitioner : Mr.P.Kumaresan
For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

O R D E R

(Order of the Court made by C.T.SELVAM, J.)

Petitioner, who is the brother of Sekar S/o.Karikarakunden, life convict (5264), 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.191 of 1994 on the file of learned Principal Sessions Judge, Salem, for offence u/s.302 r/w 34 IPC. Under judgment dated 23.01.1995, the trial Court convicted the accused and sentenced him to life imprisonment. Appeal against his conviction in C.A.No.330 of 1995 was dismissed by this Court under judgment dated 20.08.2003. Accused presently is confined at Central Prison, Puzhal, Chennai.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. Learned counsel for petitioner submits that on the Birth Centenary of the former Chief Minister of Tamil Nadu, Peraringnar 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 the accused was entitled to release under the above said Government Order. However, he wrongly stands denied such relief and has now been in prison for a period of 17 years.

5. Learned Additional Public Prosecutor, placing reliance on the counter filed by respondents, submitted that the accused has committed several prison offences and hence, was not eligible 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 has been in prison for a period of 17 years. As on the date of G.O.Ms.No.1155, Home Department, dated 11.09.2008, the accused did not suffer any disqualification. What is put against him is the alleged prison offences committed by him between 2009 and 2013, i.e., after he became entitled to premature release as per G.O.Ms.No.1155, Home Department, dated 11.09.2008. 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 life convict Sekar S/o.Karikarakunden (C.P.No.5264), confined at Central Prison, Puzhal, Chennai, is directed to be released forthwith, unless he is required in connection with any other case.

vga/gm

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai - 600 009.
2. The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Superintendent of Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras, Chennai.
5. The Joint Secretary to Govt.
Public (Law & Order) Dept.
Fort St.George, Chennai 9.

+ 1 cc to Mr.B.Nambiselvan, Advocate SR 50419

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