

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.575 of 2017

Govindammal

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By the Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.

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

3.The Superintendent of Prison
Central Prison
Coimbatore.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son namely Mottaiyan @ perumal, S/o.Karuppannagoundar, Life Convict, Ct.No.79753, aged about 50 years, now confined in the Central Prison, Coimbatore before this Court and directing the respondents to consider the petitioner's son under Rule 341 of Tamil Nadu Prison Rules 1983, the advisory Board Scheme, for premature release and set him at liberty.

For Petitioner : Mr.Saravanan for Mr.P.Pugalenthir

For Respondents : Mr.V.M.R.Rajentran,
Addl. Public Prosecutor.

O R D E R

(Order of the Court was made by RAJIV SHAKDER, J)

1. This is a petition filed by the mother of the detenu, seeking issuance of directions to the respondents to consider the premature release of the detenu under Rule 341 of the Tamil

Nadu Prison Rules, 1983.

2. Notice in this petition was issued on 01.08.2017. Pursuant to which, the State has filed a counter affidavit.

3. A perusal of the record would show that the detenu has been convicted in two cases i.e., Sessions Case No.137 of 1992 and Sessions Case No.103 of 2001. In the first case, vide judgment dated 10.08.1993, the detenu was convicted and was thus, directed to undergo life imprisonment. Similarly, in the later case, the detenu was convicted, vide judgment dated 04.09.2001, and was directed to undergo life imprisonment. Both these judgments stand confirmed in appeals preferred to this Court. These judgments were passed on 09.07.2002 in Criminal Appeal No.581 of 1993 (Sessions Case No.137 of 1992) and 09.11.2004 in Criminal Appeal No.1573 of 2002 (Sessions Case No.103 of 2001).

3.1. In the Sessions Case No.137 of 1992, according to the State, the detenu has undergone imprisonment, as on 31.03.2017, for a period of 16 years, 8 months and 6 days. Insofar as Sessions Case No.103 of 2001 is concerned, as on 31.03.2017, the detenu has suffered in imprisonment for 14 years, 1 month and 20 days. In effect, the detenu has suffered actual imprisonment of 16 years, 8 months and 6 days.

3.2. It appears that the detenu had, in fact, been released in the interregnum on emergency leave for three (3) days, which was sanctioned on 07.06.2008. The detenu, however, violated the leave rules and did not surrender himself. Consequently, for two (2) years, the detenu remained absconding and was finally arrested and imprisoned after much effort. On account of this conduct of the detenu, Crime No.99 of 2008, under Section 224 of the Indian Penal Code, was registered against him. The detenu was convicted and sentenced to undergo simple imprisonment of one (1) year vide judgment passed on 20.09.2011.

4. The petitioner, on the other hand, states that the detenu has undergone 19 years of incarceration, which, as per the record maintained by the State, to which we have made a reference, does not appear to be correct. However, the fact remains that the detenu has suffered actual imprisonment for more than 16 years.

5. The State, however, in its counter affidavit, has taken a stand that steps have been taken to convene an Advisory Board, as far back as in December 2016. In this behalf, it is averred in the counter affidavit that reports of the District Collector, Coimbatore and Probation Officer have been called as required

under Rule 340 of the Tamil Nadu Prison Rules, 1983. In effect, the State takes the stand that necessary action has already been taken to initiate consideration of detenu's case for premature release.

6. Having regard to the record and the submissions of the counsel, we are inclined to direct the State Government to convene an Advisory Board as early as possible, though, not later than 30.11.2017, given the fact that steps in that behalf have taken, as far back as in December, 2016. The Advisory Board will consider the record pertaining to the detenu and shall, thereafter, expeditiously, though not later than four (4) weeks, articulate its recommendation vis-a-vis the detenu's case. The Government, as is required in law, will consider the recommendation of the Advisory Board and pass a suitable order, though, not later than two (2) weeks from the date of receipt of recommendation of the Advisory Board.

7. This petition is, accordingly, disposed of in terms of the aforementioned directions.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 9.
- 2.The Secretary to government,
Public (L&O),
Secretariat,
FSG, Chennai-9
- 3.The Additional Director General of Police &
Inspector General of Prisons,
Gandhi Irwin Road
Egmore, Chennai - 600 008.

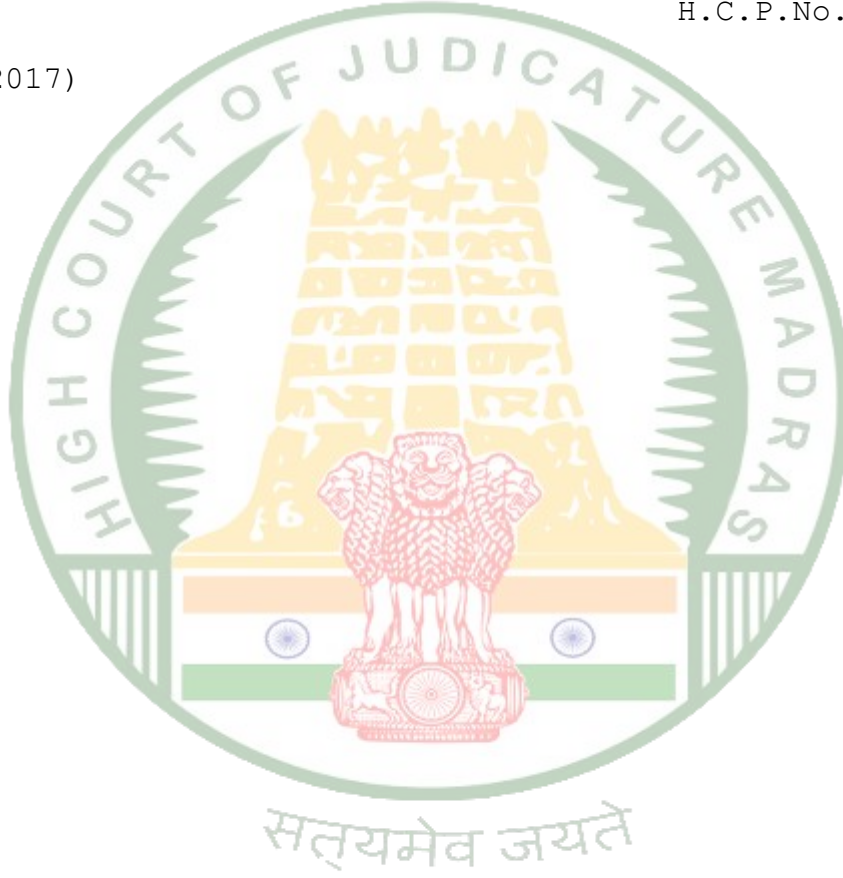
4.The Superintendent
Central Prison
Coimbatore.

5.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.P.Pugalendhi, Advocate, S.R.No.79194

H.C.P.No.575 of 2017

GN(08/11/2017)



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