

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.43895 of 2016

Deisy Rani Jawahar

.. Petitioner

Vs

1.Home Secretary (Prison IV)
Home Department,
Government of Tamil Nadu,
Fort St. George,
Rajaji Salai,
Chennai - 600 009.

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

3.The Superintendent of Prisons,
Central Prison,
Madurai.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus to direct the first respondent to treat the petitioner husband namely S.Jawahar S/o.Sakkarai Nadar (convict No.4950) now presently confined in Central Prison, Madurai as having become eligible for premature release immediately.

For Petitioner : Mr.G.Krishnakumar

For Respondents : Mr.C.Emalias, APP

ORDER

The prayer made in the writ petition is to issue a Writ of Mandamus directing the first respondent to treat the petitioner's husband viz., S.Jawahar S/o.Sakkarai Nadar (convict No.4950) now presently confined in Central Prison, Madurai, as eligible for premature release immediately.

2. It is the case of the petitioner that her husband by name S.Jawahar, has been convicted for the offence punishable under Section 302 IPC and has been sentenced to undergo rigorous imprisonment by a judgment dated 03.12.1998 passed by the learned Principal Sessions Judge, Tuticorin in SC No.77 of 1994. Aggrieved over the same, an appeal in CrI.A (MD) No.517 of 1999 was preferred, which was dismissed on 15.06.2007. Hence, he has been undergoing sentence. While so, due to blunt injury in both the eyes, he lost his vision, due to which, he finds very difficult to lead his day today life and he is always depending on others for each and every thing. In view of the absence of her husband, the petitioner is suffering from financial crisis and other untold hardship. Apart from that, her husband has undergone sentence for more than 13 years and 9 months, as on the date of filing of this writ petition. Therefore, she made a representation dated 25.05.2015 to the first respondent, requesting to premature release of her husband.

3. It is the further case of the petitioner that her representation was rejected by the second respondent stating that no such proposal was pending before the Government, by order dated 04.06.2015, which was challenged by the petitioner before this Court in WP.No.12550 of 2016, wherein, the second respondent produced a letter dated 19.07.2016 addressed to the District Collector, Tuticorin, stating that a report was called for as per Rule 631 of the Tamil Nadu Prison Rules, 1983. Based on the same, this Court disposed of the said writ petition on 26.07.2016 directing the District Collector, Tuticorin to take expedite action. Pursuant to the said order of this Court, the District Collector, after due enquiry, sent a report to the second respondent during the month of October 2016, recommending the proposal of the petitioner for premature release of her husband. On receipt of the said recommendation, the second respondent called for a report from the third respondent, who, in turn, sent his report to the second respondent, in the month of November 2016. Now, the petitioner came to understand that based on the said reports, the second respondent also sent his report to the first respondent. However, till date, no order was passed, which compelled the petitioner to approach this Court with the present writ petition for the above stated relief.

4. Learned Additional Public Prosecutor appearing for the respondents submitted that necessary direction be issued to the first respondent to pass appropriate orders, on the basis of the recommendation of the District Collector, Tuticorin and also report of the respondents 2 and 3.

5. Considering the facts and circumstances of the case and also taking note of the submission made by the learned Additional Public Prosecutor, this Court directs the first

respondent to consider the recommendation of the District Collector, Tuticorin and the reports of respondents 2 and 3 and pass appropriate orders, with regard to pre-mature release of the petitioner's husband S.Jawahar (Convict No.4950) within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is disposed of. No costs.

sd/
Assistant Registrar (CCC)

/true copy/

Sub Assistant Registrar

rk

To

- 1.Home Secretary (Prison IV)
Home Department,
Government of Tamil Nadu,
Fort St. George,
Rajaji Salai, Chennai - 600 009.
- 2.The District Collector,
Tuticorin.
- 3.The Principal Sessions Judge,
Tuticorin.
- 4.The Additional Director General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 5.The Superintendent of Prisons,
Central Prison,
Madurai.
(with Copies duplicate for communication to the accused)
- 6.The Public Prosecutor, High Court, Madras - 104.

+1cc to Mr.G.Krishnakumar, Advocate SR.No.10523

WP.No.43895 of 2016

UG (CO)
GN(24/02/2017)