

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 26462 OF 2017

ORDER:

Petitioner is the son of the life convict viz. Ankati Gopala Rao @ Ankati Gopala Krishna Murthy in S.C. No. 506 of 1992 on the file of the III Additional Sessions Judge's Court at Guntur, now confined in Central Prison, Rajamahendravaram. Conviction was handed down to the said Gopala Rao on 03.04.1996 for the offence punishable under Section 302 of the Indian Penal Code and he was sent to the Central Prison, Rajahmundry on 11.04.1996. Thereafter, he was released on parole on 07.04.1999 and the said facility was extended up to 07.12.1999. Though, he was supposed to surrender on 08.12.1999, he did not do the same on the ground that he suffered brain and heart stroke and paralysed and went into coma for several months. Subsequently, he was apprehended from Pedakakani Police Station and was lodged in Rajahmundry Central Prison on 26.03.2014. The fact, however, remains that the petitioner's father was outside the prison and was not available to the law enforcing agency. The present Writ Petition is filed citing that the father of the petitioner has been suffering from brain stroke old Cerebro Vascular Accident with hemiparesis, Stage-II Hypertension, Coronary Artery Disease (CAD) with AWMI with post PTCA (stent) VII Nerve palsy and he was under supervision and medication of the doctors of Prison Hospital. In those circumstance, the petitioner prays this Court to grant the reliefs sought in paragraphs 11, 12 and 13, which are as under:

“ 11) to direct the respondents herein to release Ankati Gopala Rao @ Ankati Gopala Krishna Murthy convict No. 2094, now confined in Central Prison, Rajamahendravaram on bail for medical

treatment at Care Hospital, Banjara Hills, Hyderabad for a period of 30 days pending disposal of Writ Petition before this Hon'ble Court;

12) to direct the respondents herein to produce Ankati Gopala Rao @ Ankati Gopala Krishna Murthy, Convict No. 2094, now confined in Central Prison, Rajamahendravaram before the Medical Board constituted to examine the prisoners and call for a report from the Medical Board, pending disposal of the Writ Petition before this Hon'ble Court.

13) For all the reasons stated above, it is just and necessary that this Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the action of the respondents herein in not referring Ankati Gopala Rao @ Ankati Gopala Krishna Murthy Convict No. 2094, now confined in Central Prison, Rajamahendravaram to the Medical Board constituted to examine the prisoners, as arbitrary, illegal and unconstitutional and consequently, direct the respondents herein to release Ankati Gopala Rao @ Ankati Gopala Krishna Murthy Convict No. 2094, now confined in Central Prison, Rajamahendravaram in terms of G.O.Ms.No. 44, dated 16.03.2007."

A detailed counter-affidavit was filed pointing out that the father of the petitioner had successfully evaded the prison for 14 years, after expiry of parole on 07.04.1999.

Heard learned counsel for the petitioner.

Learned Government Pleader for Home opposes the Writ Petition and submits that even as per the petitioner himself, Writ Petition No. 12870 of 2015 was filed seeking the similar relief including the relief of pardon, but the same came to be rejected. The learned Government Pleader would also point out that there is no Application made by the petitioner and/or his father and at any rate, the medical condition of the life convict would be attended to by the prison authorities in all respects.

Having considered the respective submissions, at the outset, this Court is of the opinion that the relief of the nature sought in paragraph 11 cannot be granted in exercise of the extraordinary

jurisdiction under Article 226 of the Constitution of India. Further, there being no request made by the petitioner before the competent authority, the relief sought in paragraphs 12 and 13 of the affidavit also cannot be considered.

In those circumstances, the Writ Petition is disposed of, without expressing any opinion on merits, giving liberty to the petitioner to approach the competent authority and make an Application seeking the necessary reliefs. Within six weeks thereafter, the authorities shall consider the Application and pass appropriate orders thereon. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

10th August 2017

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CHALLA KODANDA RAM, J

