

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2302/2017 & CrI.MP.No.15209/2017

S.Glory

..

Petitioner

vs.

1.The Secretary to Government of Tamil Nadu
Department of Home, Fort St, George
Chennai 600 009.

2.The Additional Director General of Prison
CMDA Towers, Egmore, Chennai 600 008.

3.The Superintendent
Central Prison,
Palayamkottai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to consider under Suspension of Sentence Rules, 1983 in Nos.632, 633 and 634 to the detenu Oliver, S/o.Devadasan, convict No.3452 detained at Central Prison, Palayamkottai, for premature release and produce him before this Court and set him at liberty.

For Petitioner .. Dr.S.Manoharan

For Respondents.. Mr.V.M.R.Rajentran, APP

ORDER

(Order of the Court was made by N.SATHISH KUMAR, J.)

In Pursuant to our earlier order dated 19.01.2018 made in CrI.MP.No.15209/2017 in HCP.No.2302/2017, the learned Additional Public Prosecutor has produced the Medical Certificate issued by the Assistant Professor, Division of Radiotherapy and Clinical Oncology, Regional Cancer Centre, Medical College Campus, Thiruvananthapuram.

2 On a perusal of the above Medical Report, it is seen that Detenu Oliver, son of Devadasan, is a cancer patient and the Pathology Report showed margin positivity and he stands high chance of having recurrent disease and his chance of survival

for 18 months would be approximately 50% only.

3 Under Rule 632 of the Tamil Nadu Prison Rules, 1983, if any Medical Officer considers that any prisoner is dangerously ill and that his illness has not been purposely caused or aggravated by the prisoner himself and that the prisoner will have a reasonable chance of recovery, if released," then the State can release the prisoner. On a glance of the Medical Report, we are of the view that the chance of detenu's survival in the prison is only 50%. Learned counsel for the petitioner also relied upon Rule 633 of the Tamil Nadu Prison Rules, 1983, which empowers the State to release the prisoners who are in danger of death from sickness caused not due to infectious disease and there is no scope of recovery within / without the prison. The Medical Certificate clearly shows that complete recovery of the detenu is remote in this case. In view of the same, we are of the considered view that it is a fit case where the State can extend the benefit of either Rule 632 or 633 of the Rules.

4 Accordingly, the respondents are directed to consider the case of the detenu Oliver, son of Devadasan, now confined at Central Prison, Palayamkottai, and extend the benefit of either Rule 632 or 633 of the Tamil Nadu Prison Rules, 1983 and pass appropriate orders, releasing the detenu, within a period of two weeks from the date of receipt of a copy of this order and till such time, the leave granted by this Court to the detenu, which expired yesterday [23.01.2018], shall continue till appropriate orders are passed by the State.

5 The Habeas Corpus Petition stands disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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AP

To

1.The Secretary to Government of Tamil Nadu
Department of Home, Fort St, George
Chennai 600 009.

2.The Additional Director General of Prison
CMDA Towers, Egmore, Chennai 600 008.

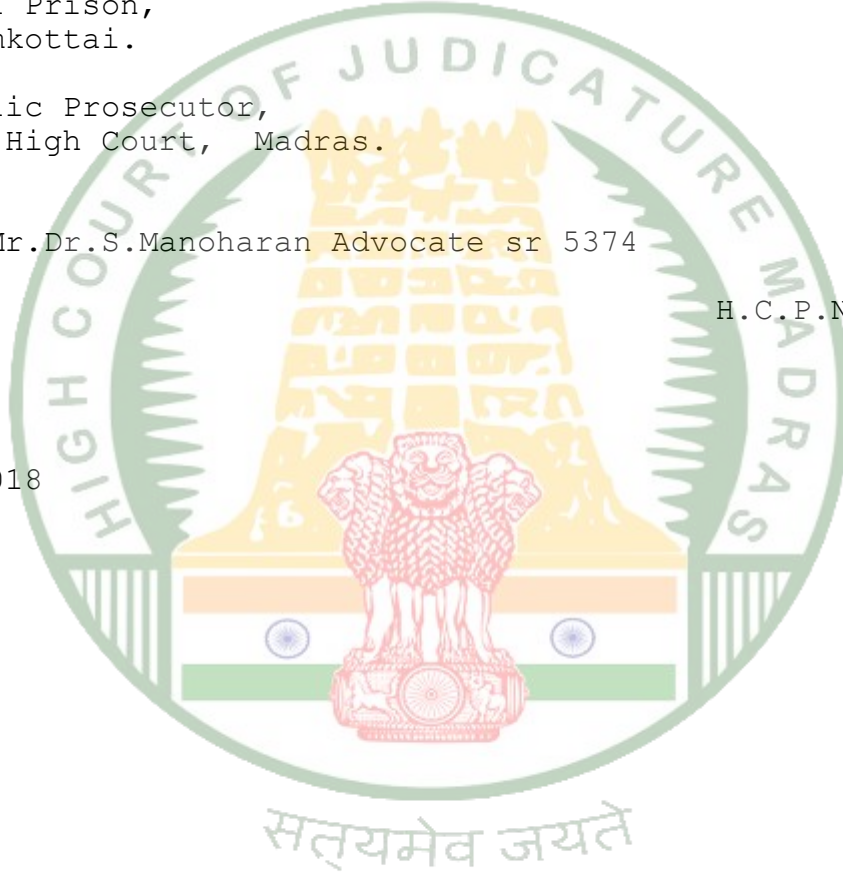
3.The Superintendent
Central Prison,
Palayamkottai.

4.The Public Prosecutor,
Madras High Court, Madras.

+1 cc to Mr.Dr.S.Manoharan Advocate sr 5374

H.C.P.No.2302/2017

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