

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.379 of 2018

S.Karthik ... Petitioner/Son of Detenue

-Vs-

1.The Addl. Director General of Police,
Egmore, Chennai.

2.The State by the Inspector of Police,
K1, Sembiam Police Station,
Chennai.
(Crime No.2088/2005).

3.The Superintendent of Prison,
Central Jail, Puzhal, Chennai. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the respondents 1 and 3 to set off the pre-trial period of the imprisonment under section 428 of Criminal Procedure Code from 21.08.2005 to 09.12.2005 already undergone by the detenu Sathiya @ Sathiyamurthy, son of Balan, Convict No.1399/2008 who is confined at Central Prison, Puzhal, Chennai in S.C.No.491 of 2005 on the file of the Addl. Sessions Court, Chennai at Poonamallee by judgment dated 12.12.2007.

For Petitioner: Mr.V.Paarthiban

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner, who is the son of the detenu viz., Sathya @ Sathiyamurthy, seeks a direction to set off the pre trial period of the imprisonment from 21.08.2005 to 09.12.2005 already undergone by the detenu under section 428 of Criminal Procedure Code

2. Heard learned counsel for petitioner and learned Additional Public Prosecutor for respondents.

3. The detenu stood trial for offences under Sections 302 and 341 IPC in SC.No.491 of 2005 on the file of learned Additional Sessions Court, Chennai at Poonamallee and under judgment dated 12.12.2007, was convicted and sentenced to life imprisonment for offence under Section 302 IPC and held not guilty of offence under Section 341 IPC. The detenu preferred an appeal against his conviction in CrI.A.No.329 of 2008, which was dismissed by this Court under judgment dated 08.04.2009.

4. Learned counsel for petitioner submitted that pending investigation, the detenu had suffered incarceration between 21.08.2005 and 09.12.2005 i.e., a period of 108 days. Such period had not been set off against the punishment imposed on him and the same violates Section 428 Cr.P.C.

5. Heard learned Additional Public Prosecutor on the above submission.

6. Finding acceptable the submission of learned counsel for petitioner and having confirmation of the learned Additional Public Prosecutor that the petitioner indeed suffered incarceration for a period of 108 days pending investigation, this Court directs that the said period of 108 days shall be set off against the sentence imposed on the petitioner in S.C.No.491 of 2005 on the file of Additional Sessions Court, Chennai at Poonamallee.

7. This Habeas Corpus Petition accordingly is disposed of.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmi

TO

1. The Additional Sessions Judge, Poonamallee.

2.The Addl. Director General of Police,
Egmore, Chennai.

3.The State by the Inspector of Police,
K1, Sembiam Police Station,
Chennai.

4.The Superintendent of Prison,
Central Jail, Puzhal, Chennai.

5. The Public Prosecutor
High Court, Madras-104.

+1cc to Mr.V.PARTHIBAN, Advocate, S.R.No. 18665

H.C.P.No.379 of 2018

GJ II(CO)
TR(17/04/2018)



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