

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
AND
THE HONOURABLE Mrs. JUSTICE S.RAMATHILAGAM

H.C.P.No.2166 of 2018
and
CRL.M.P.No.14462 of 2018

A.Nadhira Banu
D/o.Abdul Razak

...Petitioner

-Vs-

1. The State represented by its
The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 600 009.
2. The Additional Director General of Prison,
C.M.D.A.Towers.
Egmore, Chennai-600 008.
3. The Superintendent of Prison,
Central Prison,
Puzhal-I, Chennai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to release the detenu A.Ibrahim, Convict No.4661, Son of Abdul Razak, aged 39 years prematurely, confined at Central Prison, Puzhal, Chennai in the light of the G.O.(Ms).No.1155, dated 11.09.2008 and G.O.(Ms) No.64 dated 01.02.2018 for premature release.

For Petitioner : Dr.S.Manoharan

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 sister of Convict Prisoner viz., A.Ibrahim (Convict No.4661 housed in Central Prison, Puzhal, Chennai), S/o.Abdul Razak, has moved the present petition seeking relief under G.O.(Ms) No.1155, Home (Prison-IV) Department, dated 11.09.2008 and G.O.(Ms) No.64, Home (Prison-IV) Department dated 01.02.2018.

2. Convict prisoner faced trial in S.C.No.201 of 1999 on the file of learned Additional Sessions Judge-II, Kovai. After trial, Trial Court convicted him u/s 302 and 148 IPC and sentenced to undergo Life Imprisonment for offence u/s 302 IPC and one year R.I and fine of Rs.1,000/- i/d one month R.I for offence u/s 148 IPC.

3. Heard learned counsel for petitioner as also learned Additional Public Prosecutor for respondents.

4. Learned counsel for petitioner submits that petitioner's brother whose release is sought under G.O.(Ms) No.64, Home (Prison IV) Department dated 01.02.2018 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 28.07.2018 to the respondents informing the application of G.O.(Ms).No.1155, Home (Prison-IV) Department dated 11.09.2008 and G.O.(Ms).No.64, Home (Prison-IV) Department dated 01.02.2018 in the case of her brother/convict prisoner and seeking relief thereunder.

5. There is no dispute over the fact that the convict prisoner would be entitled to release under G.O.(Ms).No.64, Home [Prison-IV] Department dated 01.02.2018. However, he has been denied the benefit thereof since the Probation Officer's report informs danger to the life of the Convict Prisoner, if he be let at large. Refusing release of a prisoner on the ground that his safety is at risk would amount to denying him the same not owing to any fault of his but on an apprehension of possibility of wrong doing by others. This, we consider unreasonable. In such cases, we would recommend that prisoners be released but in doing so be informed of the possibility of harm to them.

6. This Court considers it appropriate and direct the respondents to consider the representation given by the sister of the petitioner and dispose of the same, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Habeas Corpus Petition shall stand disposed of. Consequently, connected miscellaneous petition is also closed.

kmi

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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,
C.M.D.A.Towers.
Egmore, Chennai-600 008.
3. The Superintendent of Prison,
Central Prison,
Puzhal-I, Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc To Dr.S.Manoharan, Advocate, SR.NO.87198

H.C.P.No.2166 of 2018
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SJ(CO)
KAK(01/02/2019)

सत्यमेव जयते

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