



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2018

CORAM:

**THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

HCP [MD].No.187 of 2018

Mr.I.Linganadar

: Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary,
Department of Home Affairs,
State of Tamil Nadu, Fort St.George,
Chennai.
2. The Additional Director General of Police/
Inspector General of Prisons,
No.6, Whannels Road, Egmore,
Chennai - 600 008.
3. The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.

: Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus directing the respondents to reckon the period of remission as the sentence served by the petitioner's son as more than ten years and consequently, to release the petitioner's son namely L.Kamaraj LCT 3748 lodged in Palayamkottai Central Prison, Tirunelveli by premature release in accordance with G.O.(Ms)No.64, dated 01.02.2018 before this Court and set him at liberty.

For Petitioner : Mr.T.Lajapathiroy

For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.C.Ramesh
Additional Public Prosecutor

**ORDER**

[Order of the Court was made by

S.VIMALA, J]

This petition has been filed by the father of a life convict, contending that the detenu has been incarcerated in Palayamkottai as a life convict and he is eligible for remission in accordance with the Government Order in G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018, by which, the eligible criteria for those persons to be considered for remission has been prescribed.

2.Even according to the petitioner, the life convict has not completed 10 years of actual imprisonment, but the claim is that he has completed 9 years and over and above 6 months and that could be construed as completion of 10 years. So contending, the petitioner claims to consider the case of the petitioner's son by reckoning the period of incarceration, as eligible period.

3.The learned Additional Advocate General appearing for the State, by relying upon the Judgment of the Hon'ble Supreme Court in **GOPAL VINAYAK GODSE v. STATE OF MAHARASHTRA AND OTHERS** reported in **(1961) 3 SCR 440**, would contend that it is the prerogative of the Government to consider the remission of a life convict under the provisions of the Constitution as well as under the Provisions of Criminal Procedure Code and therefore, when it is in the exclusive province of the Government to consider the request, the petitioner cannot ask for any direction from this Court. It is also contended that it is within the exclusive province of the Government to consider the same.

4.Under such circumstances, we direct the Government to consider the representation of the petitioner, dated 08.02.2018 and to pass appropriate orders in law and on facts, within a period of four weeks from the date of receipt of a copy of this order.

5.The Habeas Corpus Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Department of Home Affairs,
State of Tamil Nadu, Fort St.George,
Chennai.



2. The Additional Director General of Police/
Inspector General of Prisons,
No.6, Whannels Road, Egmore,
Chennai - 600 008.

WEB COPY

3. The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli.

4. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.t.Lajapathi Roy , Advocate in SR No. 49234

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AE/SKN RSK/SAR1/02.03.2018/3P/6C

ORDER MADE IN
HCP [MD].No.187 of 2018
16.02.2018