



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 02.04.2018

CORAM:

THE HONOURABLE Mr.JUSTICE C.T.SELVAM  
and  
THE HONOURABLE Mr.JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.359 of 2016

Prema Devi ... Petitioner  
Vs.

- 1.State Rep.by  
The Principal Secretary to Government,  
Home (Prison IV) Department,  
Secretariat,  
Fort St.George,  
Chennai 600 009.
- 2.The Additional Director General of Prison,  
Egmore,  
Chennai 600 008.
- 3.The Superintendent,  
Central Prison,  
Trichy.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to release the petitioner's husband namely, Kannan son of Subramani, CP 20124 from the Central Prison, Trichy and directing the respondents to give the benefits to the petitioner's husband for premature release by considering the petitioner's representation dated 20.04.2015 and 26.11.2015.

For Petitioner : Mr.S.M.A.Jinnah  
For Respondents : Mr.Dinesh Babu, APP

ORDER

(Order of the Court was made by C.T.SELVAM,J.)

This petition has been filed by the wife of detenu, contending that the detenu has been incarcerated in Central Prison, Trichy 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.The prisoners, who are eligible for consideration for pre-mature release has been enlisted in G.O.(Ms)No.64, Home ((Prison-IV) Department, dated 01.02.2018, and the same reads as under:-



"(II) The life convicts who have completed 10 years of actual imprisonment as on 25.02.2018 and the life convicts who are aged 60 years and above and who have completed 5 years of actual imprisonment on 25.02.2018 including those who were originally sentenced to death by the Trial Court and modified to life sentence by the Appellate Court (other than those whose convictions have been commuted), may be considered for premature release subject to satisfaction of the following conditions:-

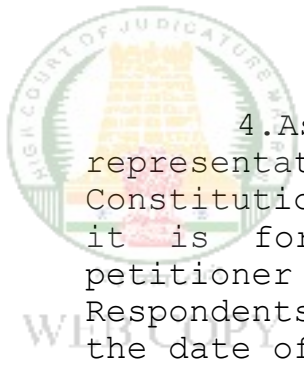
1) The prisoner's behaviour should be satisfactory.

2) Prisoners convicted for the following offences are ineligible for consideration for premature release irrespective of the nature and tenure of the sentence and irrespective of the fact as to whether or not they have undergone the sentence in respect of the said offence namely:-

(A) Prisoners convicted for the following offences, namely:-

- (i) Rape (Section 376 of IPC)
- (ii) Forgery (Section 467, 471 of IPC)
- (iii) Robbery (Section 397, 398 of IPC)
- (iv) Dacoity (Section 396, 397, 398, 399, 400, 402 of IPC)
- (v) Terrorist crimes
- (vi) Offences against the State
- (vii) Offences under Sections 153-A, 153-AA and 153B of IPC.
- (viii) Escape or attempting to escape from lawful custody  
(except overstaying of parole leave only)
- (ix) Forgery/counterfeit of currency notes or bank notes/making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes (section 472, 474, 489A, 489B and 489D of IPC)
- (x) Cruelty against women or dowry death (section 498A and 304B IPC)
- (xi) Economic offences, black-marketing, smuggling or misuse of power and authority.
- (xii) Selling illicit arrack mixed with poisonous substance.
- (xiii) Habitual Forest offenders who are responsible for disturbing the ecological balance."

3. The learned Additional Public Prosecutor appearing for the State, would state that the detenu has attracted conviction under Section 498A of IPC and therefore, he is not eligible to be considered, as per clause 2A(x) of the above Guidelines. Learned counsel for the petitioner would submit that the period of conviction for offence under Section 498 A in a separate case has been already suffered by the detenu and it has come to an end and therefore, it is a fit case for consideration. It is contended that in similar cases, remission has been granted.



4.As it is always open to Government to consider the representation in exercise of power under Article 161 of the Constitution of India in keeping with Chapter XXXII - E of Cr.P.C., it is for Government to consider the representations of the petitioner dated 20.04.2015 and 26.11.2015 and act as appropriate Respondents are required to do so 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 Principal Secretary to Government,  
Home (Prison IV) Department,  
Secretariat,  
Fort St.George,  
Chennai 600 009.
- 2.The Additional Director General of Prison,  
Egmore,  
Chennai 600 008.
- 3.The Superintendent,  
Central Prison,  
Trichy.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to M/S.S.M.A.Jinnah, Advocate SR.No. 59310

H.C.P. (MD) No.359 of 2016  
02.04.2018

nbj  
JM/KKR/SAR 1/18.05.2018/3P/6C