

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2019

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

H.C.P.No.126 of 2019

C.Rabakkal

...Petitioner

-Vs-

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to entitle the detenu for premature release in the light of G.O.(Ms) No.64 dated 01.02.2018 and produce the detenu namely Bright Rose, Son of Thangappan, Convict No.6918, detained at Central Prison, Palayamkottai before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.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 mother of Convict Prisoner viz., Bright Rose (Convict No.6918 housed in Central Prison, Palayamkottai), S/o.Thangappan, has moved the present petition seeking relief under G.O.(Ms) No.64, Home (Prison-IV) Department dated 01.02.2018.

2. Convict prisoner faced trial in S.C.No.95 of 2001 on the file of learned Additional Sessions Judge, Kanniyakumari at Nagercoil. After trial, Trial Court convicted him u/s 302, 498-A and 307 IPC and sentenced to undergo Life Imprisonment.

3. We have heard learned counsel for petitioner as also learned Additional Public Prosecutor for respondents.

4. Learned counsel for petitioner submits that petitioner's son 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 12.11.2018 to the respondents informing the application of G.O.(Ms).No.64, Home (Prison-IV) Department dated 01.02.2018 in the case of her son/convict prisoner and seeking relief thereunder. The said representation is yet to be considered. Hence, the present petition.

5. Learned Additional Public Prosecutor submits that the convict prisoner is convicted for offence u/s 498(A) IPC and as such he is ineligible under the said G.O.(Ms).No.64.

6. This Court has, in HCP No.3333 of 2013 considered a similar case and under orders dated 22.01.2014 granted relief informing the exclusion of person attracting offence punishable under Section 498-A IPC from release to be erroneous. Following the same, this Court would consider it appropriate to allow this Habeas Corpus Petition.

7. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Bright Rose (Convict No.6918 housed in Central Prison, Palayamkottai), S/o.Thangappan, is directed to be released forthwith in terms of G.O.Ms.No.64 Home [Prison-IV] Department dated 01.02.2018 unless his presence is required in any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmi

To

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

2.The Additional Director General of Prisons,
C.M.D.A.Towers,
Egmore, Chennai-600 008.

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

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George,
Chennai - 9

+1cc to Dr.S.Manoharan, Advocate, S.R.No.8494

H.C.P.No.126 of 2019

SSD(CO)

rrs 22/02/2019