

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.60 of 2019

Durai @ Duraipandi @ Kalimuthu .... Petitioner

-Vs-

1. The Government of Tamil Nadu,  
Rep. by its Secretary to Government,  
Home (Prison IV) Department,  
Fort St. George, Chennai - 600 009.
  2. The Additional Director General of Prisons,  
Thalamuthu Natarajan Maaligai,  
Egmore, Chennai-600 008.
  3. The Superintendent of Central Prison,  
Vellore.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents herein to produce the detenu Durai @ Duraipandi @ Kalimuthu, Life Convict No.1536 now confined in Central Prison, Vellore before this Court and set the detenu at liberty as having become eligible for premature release by virtue of G.O. in G.O. (Ms) No.64, Home (Prison IV) Department dated 01/02/2018 on the basis of petitioner's representation dated 14.09.2018.

For Petitioner : Mr.G.Jeremiah  
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 Convict Prisoner viz., Durai @ Duraipandi @ Kalimuthu (Convict No.1536 housed in Central

Prison, Vellore), S/o.Murugan, 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.303 of 2004 on the file of learned Principal Sessions Judge, Coimbatore. After trial, Trial Court convicted him u/s 302, 109, 148, 149 and 324 IPC r/w Section 3 of Explosives Substances Act, 1908 and sentenced to undergo Life Imprisonment. Such sentence was confirmed by this Court in Crl.A.No.573/2005 on 24.01.2007

3. Petitioner has made a representation on 14.09.2018 to the respondents informing the application of G.O.(Ms).No.64, Home (Prison-IV) Department dated 01.02.2018 and seeking relief thereunder. The said representation is yet to be considered. Hence, the present petition.

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

5. Learned Additional Public Prosecutor submits that the convict prisoner is considered ineligible for release under G.O.(Ms).No.64, since he has been convicted for offence u/s 3 of Explosives Substances Act, 1908 in S.C.No.378 of 2000 on the file of II Additional Sessions Judge, Coimbatore and has been sentenced to undergo six months R.I. Under judgment in Crl.A.no.615 of 2003 dated 08.12.2004, this Court was pleased to direct that sentences in both cases run concurrently. The convict prisoner having undergone such sentence very much earlier ought not be deprived the benefit of G.O.(Ms)No.64.

6. Accordingly, this Habeas Corpus Petition shall stand disposed of. The detenu viz., Durai @ Duraipandi @ Kalimuthu (Convict No.1536 housed in Central Prison, Vellore), S/o.Murugan, 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

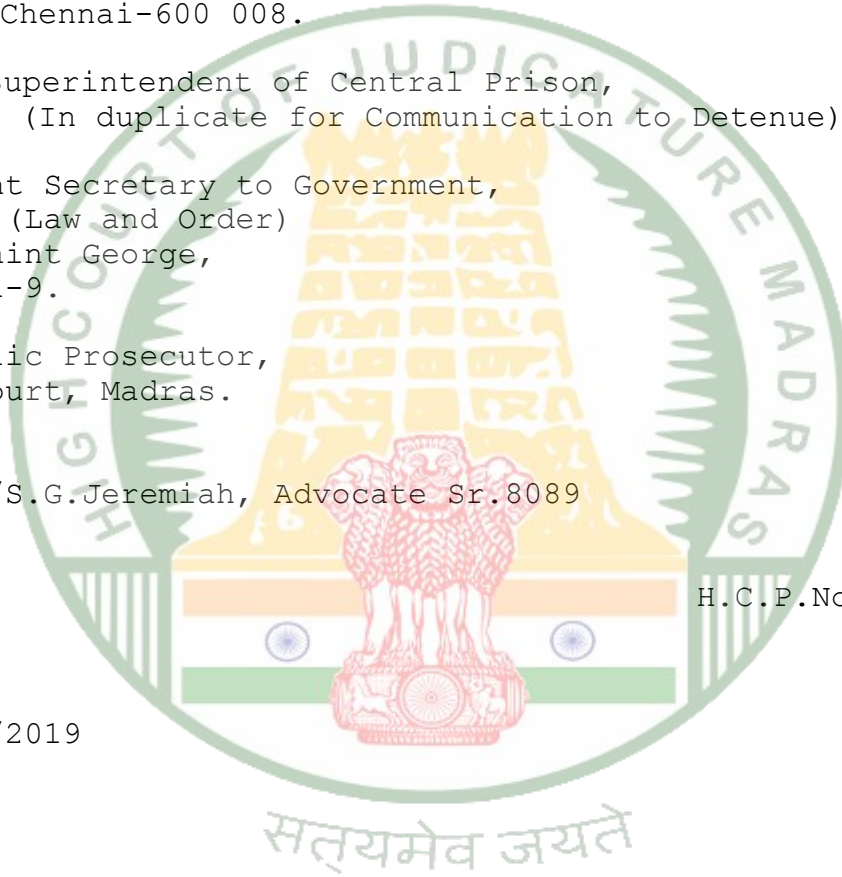
To:

- 1.The IInd Additional Sessions Judge,  
Coimbatore.
2. The Secretary to Government,  
Home (Prison IV) Department,  
Fort St. George, Chennai - 600 009.
3. The Additional Director General of Prisons,  
Thalamuthu Natarajan Maaligai,  
Egmore, Chennai-600 008.
4. The Superintendent of Central Prison,  
Vellore. (In duplicate for Communication to Detenue)
- 5.The Joint Secretary to Government,  
Public (Law and Order)  
Fort Saint George,  
Chennai-9.
- 6.The Public Prosecutor,  
High Court, Madras.

+1cc to M/S.G.Jeremiah, Advocate Sr.8089

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kj[co]  
srg 18/02/2019



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