

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2019

CORAM:

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

H.C.P.No.1550 of 2018

A.Rizana Banu

...Petitioner

-Vs-

The State represented by

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,
Coimbatore.

...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.1155 dated 11.09.2008 and G.O.(Ms) No.64 dated 01.02.2018 and produce the detenu namely Amanullah, aged about 43 years, son of Khaja Hussain, Convict No.6580, detained at Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.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 wife of the Convict Prisoner viz.,
Amanullah (Convict No.6580 housed in Central Prison,

Coimbatore), S/o.Khaja Hussain, 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.240 of 2003 on the file of learned Sessions Judge, Nagapattinam. After trial, Trial Court convicted him u/s 302 r/w 109, 449, 324 & 149 IPC.

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 husband whose release is sought 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 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 10.07.2018 to the respondents informing the applications 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 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, if he has not suffered any specific ineligibility. 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. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Amanullah (Convict No.6580 housed in Central Prison, Coimbatore), S/o.Khaja Hussain, aged about 43 years, is directed to be released forthwith in terms 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 unless his presence is required in any other case.

kmi

Sd/-
Assistant Registrar

//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,
Coimbatore.
 - 4.The Public Prosecutor,
High Court, Madras.
- +lcc to Dr.S.Manoharan, Advocate, SR.NO.723/19

H.C.P.No.1550 of 2018

kak(01/03/2019)