

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
and

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD
H.C.P.No.910 OF 2019

Saraswathi

.. Petitioner

vs.

1.The Home Secretary,
Home Department,
Secretariat,
Fort St.George,
Chennai.

2.The Additional Director General of Police (Prison),
Whannels Road, Egmore,
Chennai - 600 008.

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

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas Corpus, directing the respondents to grant parole for thirty days to the petitioner's son named Chellappa, son of Pithchaikannu (Convicted Prisoner No.13425), aged 36 years, now confined in the Central Prison, Cuddalore before this Court and further directing the respondents to consider him immediately for the parole and for consequential orders.

For Petitioner

.. Mr.K.Amirthalingam

For Respondents

.. Mr.C.Iyyapparaj,

Additional Public Prosecutor

सत्यमेव जयते
ORDER

(Order of the Court was made by S.VAIDYANATHAN, J.)

The present Habeas Corpus Petition has been filed seeking to issue a direction, directing the respondents to grant parole for thirty days to the petitioner's son, namely, Chellappa, son of Pithchaikannu (Convicted Prisoner No.13425), aged 36 years, now confined in the Central Prison, Cuddalore before this Court.

2. Mr.C.Iyyapparaj, learned Additional Public Prosecutor takes notice for the respondents.

3. A perusal of the records would go to show that the petitioner has made a representation on 30.04.2019 to the

Superintendent, Central Prison, Cuddalore stating that her son, namely, Pitchaikannu (Convict Prisoner No.13425) is undergoing life imprisonment for the past 11 years in connection with the judgment passed in S.C.No.108/2006 dated 20.06.2008 by the learned District and Sessions Judge, Nagapattinam in the Central Prison, Cuddalore and that 30 days ordinary leave may be granted to her son to attend the Puberty and Ear Piercing Functions of his daughters, scheduled to be held on 15.05.2019 and 16.05.2019. The above said facts would reveal that certainly, this is not a case of Habeas Corpus as the person is not in illegal custody.

4. At this stage, it is represented by the learned Additional Public Prosecutor appearing for the respondents that twice ordinary leave was granted to the son of the petitioner, namely, Pitchaikannu, but, he over stayed. Hence, now, the request of the petitioner has not been considered by the respondent.

5. Recording the submission of the learned Additional Public Prosecutor appearing for the respondents and considering the nature of relief sought for by the Petitioner, we, without going into the merits of the claim made by the petitioner on merits, direct the authorities concerned to consider the representation of the petitioner dated 30.04.2019, which was given to the 3rd respondent, namely, the Superintendent of Police, Central Prison, Cuddalore, in terms of the provisions of the Tamil Nadu Suspension of Sentence Rules, 1982, Prison Manuals, etc., within a period of one week from the date of receipt of a copy of this order.

6. Since the son of the petitioner is not in illegal custody, the present Habeas Corpus Petition itself is not at all maintainable and therefore, we are of the view that no further order is required to be passed in this petition in other aspects. Accordingly, this Habeas Corpus Petition is disposed of.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1.The Home Secretary,
Home Department,
Secretariat,
Fort St.George,
Chennai.

2.The Additional Director General of Police(Prison)
Whannels Road, Egmore,
Chennai - 600 008.

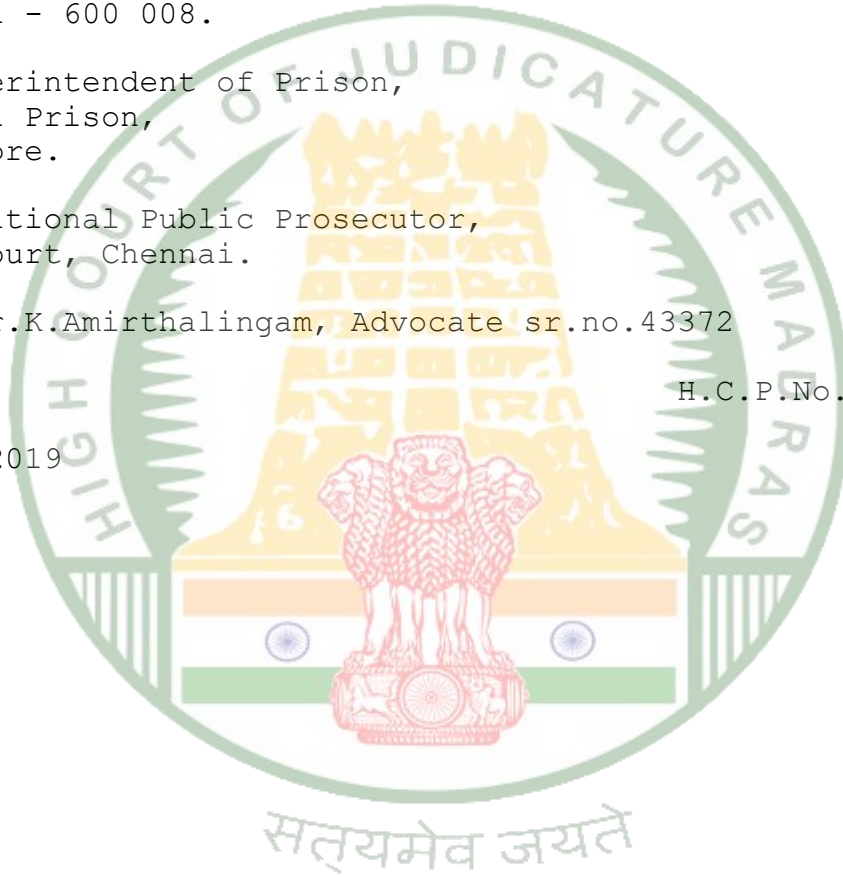
3.The Superintendent of Prison,
Central Prison,
Cuddalore.

4.The Additional Public Prosecutor,
High Court, Chennai.

+2cc to Mr.K.Amirthalingam, Advocate sr.no.43372

H.C.P.No.910 OF 2019

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