

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.01.2019

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

H.C.P.No.634 of 2017

Zaheera Banu

...Petitioner

-Vs-

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Additional Director General of Police &
Inspector General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.The Superintendent of Prison,
Central Prison-1, Puzhal,
Chennai-66.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondent to produced the petitioners husband namely UMAR BHARUKH @ MUHAIDEEN ABDHUL KADHAR S/O.LUTHBULLAH, Life Convict, aged about 35 years, now confined in the Central Prison-I, Puzhal, Chennai -66 before the Hon`ble Court and directing the respondent to consider him under G.O.MS.NO.1155 Home (Prison-IV) Department Dated 11.09.2008, for premature release and set at liberty.

For Petitioner : Mr.N.R.Elango, Senior Counsel
for Mr.P.Pugalenth

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 Life Convict Prisoner viz., Umar Bharukh @ Muhaideen Abdhul Kadhar, Son of Luthbullah, housed in Central Prison-1, Puzhal, Chennai, has moved the present petition seeking premature release under G.O.(Ms) No.1155, Home (Prison-IV) Department dated 11.09.2008, informing that her husband/convict prisoner has undergone imprisonment for

a period of 22 years and was eligible for premature release.

2. Heard learned Senior Counsel for petitioner as also learned Additional Public Prosecutor for respondents.

3. Convict prisoner faced trial in S.C.No.140 of 2000 on the file of learned First Additional Sessions Judge, FTC No.1, Trichy. Trial Court convicted him u/s 148, 302, 120B r/w 302 IPC and sentenced him to Life Imprisonment.

4. Petitioner has made a representation dated 06.02.2017 to the respondents informing the application of G.O.(Ms).No.1155, Home (Prison-IV) Department dated 11.09.2008 and seeking relief thereunder. The representation dated 06.02.2017 has not been disposed of till date. However, we are informed by learned Additional Public Prosecutor, who has forwarded a copy of Probation Officer's report dated 14.11.2017, that the Probation Officer has envisaged the possibility of breach of peace in the event of the prisoner being released and such is the reason why relief under G.O.(Ms).No.1155 has not been provided to the convict prisoner. Learned Additional Public Prosecutor further submits that the prisoner has, as on date, completed imprisonment of 22 years and 6 months.

5. Expressing the view that mere apprehension of breach of peace, suggestive of wrong doing, not by the convict prisoner but by others, would not be reason enough to deny relief to him and further situations such as breach of peace and law and order problems are concerns of the State, which are to be provided against, not by the individual/convict prisoner, but by the State and difficulties in performing duties imposed upon the state cannot be put in the way on the relief of the prisoners, this petition is allowed.

6. The detenu viz., Umar Bharukh @ Muhaideen Abdhul Kadhar, S/o.Luthbullah, aged about 35 years is directed to be released forthwith in terms of G.O.(Ms).No.1155 Home [Prison-IV] Department dated 11.09.2008 unless his presence is required in any other case.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

kmi

To:

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Additional Director General of Police &
Inspector General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.

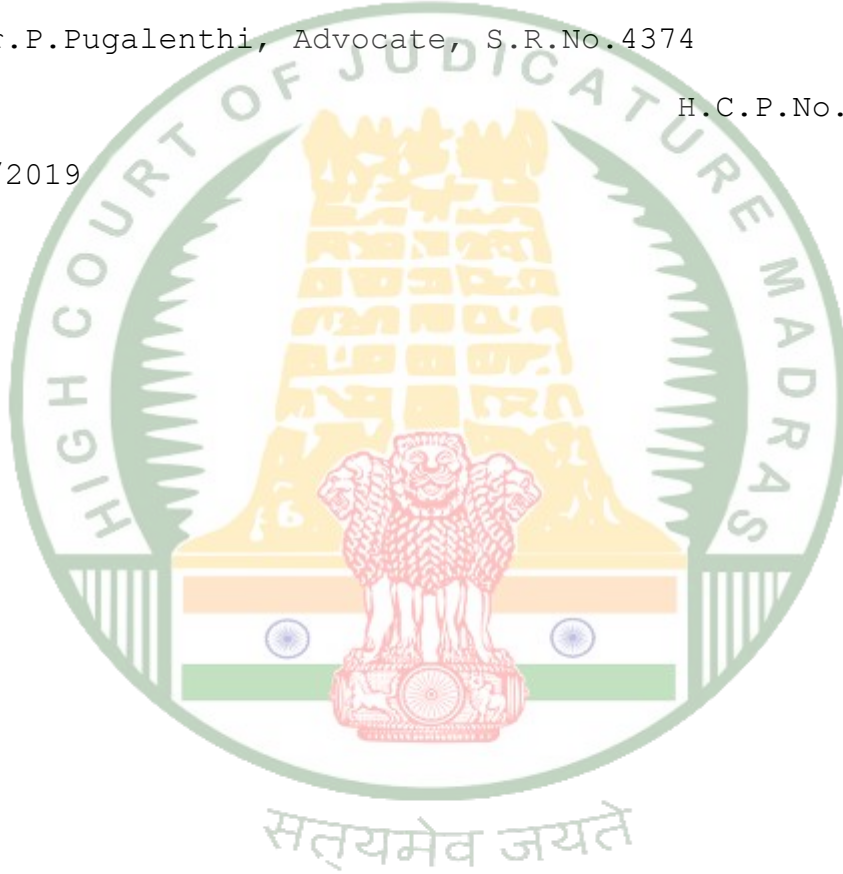
3.The Superintendent of Prison,
Central Prison-1, Puzhal,
Chennai-66.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.P.Pugalenthil, Advocate, S.R.No.4374

H.C.P.No.634 of 2017

rrs 07/03/2019



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