

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM:

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

H.C.P.No.2887 of 2018

Rabiya

... Petitioner

-Vs-

1.The State

represented by its Secretary to Government,
Home Department,
Fort St. George, Chennai - 600 009.

2.The Superintendent of Central Prison,
Central Prison,
Coimbatore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the 2nd respondent to produce the petitioner's husband Nettai Ibrahim alias Ibrahim, son of Mohamed Hussain, undergoing imprisonment at Central Prison, Coimbatore as life convict No.10900 for premature release in the light of G.O.Ms.No.1155, Home (Prison IV) Department dated 11.09.2008 and set him at liberty.

For Petitioner : Mr.S.Shanmugavelayutham
Senior Counsel
for Mr.T.Vijayaraghavan

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 Convict Prisoner viz., Nettai Ibrahim alias Ibrahim (Convict No.10900 housed in Central Prison, Coimbatore), S/o.Mohamed Hussain, has moved the present petition seeking relief under G.O.(Ms) No.1155, Home (Prison-IV) Department, dated 11.09.2008.

2. Convict prisoner faced trial in S.C.No.201 of 1999 on the file of learned Additional Sessions Judge-II, Coimbatore. After

trial, Trial Court convicted him u/s 302 and 148 IPC and sentenced to undergo Life Imprisonment for offence u/s 302 IPC and one year R.I and fine of Rs.1,000/- i/d one month R.I for offence u/s 148 IPC.

3. We have heard Mr.S.Shanmugavelayutham, learned Senior 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 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 28.11.2018 to the respondents informing the application of G.O.(Ms).No.1155, Home (Prison-IV) Department dated 11.09.2008 in the case of her husband/convict prisoner 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.1155, Home [Prison-IV] Department dated 11.09.2008. However, he has been denied the benefit thereof since the Probation Officer's report informs that the release of the petitioner may result in a law and order problem. For such reason, relief cannot be denied since the same would amount to doing so not owing to any fault on the part of the convict prisoner but on an apprehension of possibility of offence being committed by others. This Court considers it appropriate and direct the respondents to consider the representation given by the wife of the petitioner and dispose of the same, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Habeas Corpus Petition shall stand disposed of.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

kmi

To:

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

2. The Superintendent of Central Prison,
Central Prison,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.T.Vijayaraghavan, Advocate sr 766.

H.C.P.No.2887 of 2018

SP(12/02/2019)



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