

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

CORAM:

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

H.C.P.No.2943 of 2018

J.Nazeema
W/o.Jakir Hussain

... 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 Superintendent of Central Prison,
Central Prison-1,
Puzhal, Chennai.

... 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 detainee, release the detainee, Jakir Hussain, Convict No.4409, aged 43 years prematurely, confined at Central Prison, Puzhal-1, Chennai in the light 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.

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 Convict Prisoner viz., Jakir Hussain (Convict No.4409 housed at Central Prison, Puzhal-I, Chennai), 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.8 of 1999 on the file of learned First Additional Sessions Judge, Coimbatore. After trial, Trial Court convicted him u/s 302 r/w 34 IPC and sentenced to undergo Life Imprisonment.

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 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 07.12.2018 to the respondents informing the application 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 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 law and order problem. This will always remain the concern of the State and it is for the State to deal with the same. Such cannot be a ground to refuse release. If on such ground relief is denied, the same can be shown as a reason to deny relief for prisoner's entire lifetime. This Court considers it appropriate and direct the respondents to consider the representation given by the wife of the prisoner 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 of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 600 009.

2. The Superintendent of Central Prison,
Central Prison-1,
Puzhal, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S.Manoharan, Advocate sr 3826.

H.C.P.No.2943 of 2018

SP(12/02/2019)



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