

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM:

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

H.C.P.No.2993 of 2018

R.Meenakshi

...Petitioner

-Vs-

- 1.The State of Tamil Nadu  
Rep. by its Additional Chief  
Secretary to Government and  
Secretary to Government,  
Department of Home, Government of Tamil Nadu,  
Fort St. George, Chennai - 600 009.
- 2.The Additional Director General of Police  
Whannels Road, Egmore,  
Chennai-600 008.
- 3.The Superintendent of Prisons,  
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 release the detenu prematurely under the G.O.(Ms) No.64 dated 01.02.2018 issued by the first respondent and produce the detenu viz., V.Iyyappan, Son of K.C.Veludham, aged 61 years, Life Convict prisoner no.291, detained at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.S.Saravanan

For Respondents: Mr.R.Prathap Kumar  
Additional Public Prosecutor  
**Mr.C.Iyyappa Raj**  
**Additional Public Prosecutor**

ORDER

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner, who is the sister of the Life Convict Prisoner viz., V.Iyyappan (Convict No.291, housed in Central Prison-1, Puzhal, Chennai), S/o.K.C.Velayudham, has moved the present petition seeking relief under G.O.(Ms) No.64, Home (Prison-IV) Department dated 01.02.2018.

2. Heard learned counsel for petitioner, as also learned Additional Public Prosecutor for respondents.

3. Convict prisoner faced trial in S.C.No.167 of 1998 on the file of learned Additional District Judge-cum-Chief Judicial Magistrate, Chengalpattu. After trial, Trial Court convicted him u/s 307, 302 IPC and Section 42, 5 r/w 27 of Arms Act and sentenced to undergo Life Imprisonment for offence u/s 302 IPC and 7 years R.I for offence u/s 307 IPC and 3 years R.I for offence u/s 42, 5 r/w 27 of Arms Act.

4. Learned counsel for petitioner submits that petitioner's brother whose release is sought under 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. Convict Prisoner has made a representation dated 12.03.2018 to the respondents informing the application of 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. However, he has been denied the benefit thereof, since he had been convicted under the Arms Act.

6. Though there are decisions of this Court, which inform that even in respect of offences committed against the Central Enactments, it will be open to the State to consider premature release, we need not wax elaborate since in the instance case the convict prisoner has been convicted for a period of **\*three year RI for the offences u/s 42, 5 r/w 27 of the Arms Act** and he has long since undergone such sentence. Denial of relief on the ground informed, despite his having undergone sentence therefor would amount to dual punishment which is impermissible in law.

7. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., V.Iyyappan (Convict No.291 housed in **\*Central Prison I, Puzhal, Chennai 66**), S/o.K.C.Velayutham, aged

about 61 years is directed to be released forthwith in terms of 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(CO)  
Dated: 27.02.2019

**\* Amended as per order  
of this Court dated 15.03.2019  
sd/- Assistant Registrar(CS I)  
Dated: 02.04.2019**

//True Copy//

Sub Assistant Registrar

To

1.Additional Chief Secretary  
to Government and  
Secretary to Government,  
Department of Home, Government  
of Tamil Nadu,  
Fort St. George, Chennai - 600 009.

To be Substituted to  
the order already  
despatched on  
08.03.2019

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

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

4. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.S.Saravanan,Advocate, SR.NO.4346.

KAK(06/03/2019)  
SP(02/04/2019)

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