

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2019
CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
AND
THE HONOURABLE Mrs. JUSTICE S.RAMATHILAGAM
H.C.P.No.2965 of 2018

Barijan
W/o.I.Shahul Hameed

... Petitioner/Wife of the Detenue
-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 Prison,
Central Prison,
Puzhal-1, 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 Shahul Hameed, son of Ibrahim, aged 46 years, Convict No.18818 prematurely, detained at Central Prison, Puzhal-1 as per the 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., Shahul Hameed (Convict No.18818 housed in Central Prison, Puzhal-1, Chennai), S/o.Ibrahim, has moved the present petition seeking relief under G.O.(Ms) No.64, Home (Prison-IV) Department dated 01.02.2018.

2. Convict prisoner faced trial in S.C.No.239 of 2003 on the file of Fast Track Court No.3, Coimbatore. After trial, Trial Court convicted him for offence u/s 302 & 148 IPC and sentenced to undergo Life Imprisonment.

3. Heard 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.64, Home (Prison IV) Department dated 01.02.2018 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 19.11.2018 to the respondents informing the application of 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.

6. 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 the Probation Officer's report informs danger to the life of the Convict Prisoner, if he be let at large as also his release may result in a law and order problem. Refusing release of a prisoner on the ground that his safety is at risk would amount to denying him the same not owing to any fault of his but on an apprehension of possibility of wrong doing by others. This, we consider unreasonable. In such cases, we would recommend that prisoners be released but in doing so be informed of the possibility of harm to them.

7. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Shahul Hameed (Convict No.18818 housed in Central Prison, Puzhal-1, Chennai), S/o.Ibrahim 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.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To:

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

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

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Manoharan , Advocate SR.No. 8493

HCP No.2965 of 2018

A.SK(06/03/2019)