

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2020

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.7929 of 2020

J.Antony Jayakumar

.. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by Additional Chief Secretary to Government,
Department of Home (Prison IV),
Fort St. George, Chennai-600 009.
2. The Additional Director General of Police/
Inspector General of Prisons,
Egmore, Chennai-600 008.
3. The Superintendent of Prison,
Central Prison-1, Puzhal,
Chennai-600 066.
4. The District Collector,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider the representation dated 20.12.2018 for his premature release in the light of G.O.Ms.No.64, dated 01.02.2018, passed by the first respondent, direct the respondents to release him without any further delay.

* * *

For Petitioner : Mr.G.Ravikumar

For Respondents : Mrs.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

(Order of the Court was passed by T.S.SIVAGNANAM, J.)

This writ petition has been filed by the life convict to direct the respondents to consider the representation dated 20.12.2018 for his premature release, by applying G.O.Ms.No.64, Home (Prison-IV) Department, dated 01.02.2018.

2. Heard Mr.G.Ravikumar, learned counsel for the petitioner and Ms.Prabhavathi, learned Additional Public Prosecutor for the respondents.

3. The petitioner would state that he is a life convict in S.C.No.241 of 1991 on the file of the I Additional Sessions Judge, Coimbatore. The said conviction and sentence was confirmed by this Court in CrI.A.No.621 of 1992 dated 07.03.2001. It is submitted by the petitioner that he is in prison for 19 years and 7 months and has availed leave on several occasions in accordance with the prison rules and has not come to adverse notice of the prison officials. Further, the petitioner would state that while he was undergoing life imprisonment, he had acquired various skills and completed certificate courses and also a B.A. Degree and M.A. Degree, etc. and has also won several prizes in the essay competitions. The petitioner sought for the premature release, by applying the Government Order in G.O.Ms.No.64, dated 01.02.2018. However, the same was not considered on the ground that the petitioner was convicted, among other offences, for the offence under Section 471 IPC and accordingly, became ineligible for the benefit of the said Government Order. The petitioner's mother sent a representation dated 20.12.2018 to the respondents praying for the premature release of her son - the petitioner herein.

4. It is stated in the affidavit filed in support of the writ petition that the Inspector of Police has submitted a report dated 01.02.2016 to the Probation Officer and the Tahsildar, Trichy (West), submitted a report dated 01.08.2017 to the Revenue Divisional Officer, Trichy, recommending the petitioner's premature release, based on enquiry. Further, it is stated that in the month of May, 2019, the earlier report has been reiterated for the release of the petitioner.

5. The grievance of the petitioner is that till date the representation made by the mother of the petitioner for the release of the petitioner, by applying G.O.Ms.No.64, dated 01.02.2018, has not been considered.

6. Mr.G.Ravikumar, learned counsel for the petitioner,

submitted that though the petitioner was convicted, among the other provisions of the Indian Penal Code including Section 471 IPC, which would disentitle him to the benefit of the G.O., the maximum sentence, which can be imposed for the offence under Section 471 IPC, is seven years, whereas the petitioner has been sentence to undergo the imprisonment for one year for the said offence, and he has already completed more than 19 years and therefore, there is no bar for considering the case of the petitioner.

6.1. The learned counsel referred to the decision of the Hon'ble Supreme Court in Crl.A.No.120 of 2019, dated 22.01.2019 (State of Tamil Nadu and others V. P.Veera Bhaarithi), in support of his contentions.

7. The learned Additional Public Prosecutor appearing for the respondents submitted that a detailed report has to be called for to consider as to whether the benefit of the G.O. can be extended to the petitioner.

8. In our considered view, there would be no necessity to keep this writ petition pending, because the prayer sought for by the petitioner is a direction to the first respondent to consider the representation dated 20.12.2018 given by his mother for the release of the petitioner, by applying G.O.Ms.No.64, dated 01.02.2018. Therefore, it is well open to the first respondent to consider the representation on merits and in accordance with law.

9. Since the representation is pending from 20.12.2018, we are inclined to dispose of this writ petition, by directing the first respondent to take a decision on the representation as expeditiously as possible, preferably not later than three months from the date of receipt of a copy of this order.

10. Accordingly, this writ petition stands disposed of, by directing the first respondent to consider the petitioner's / petitioner's mother's representation dated 20.12.2018 for premature release, by applying G.O.Ms.No.64, dated 01.02.2018, and pass orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

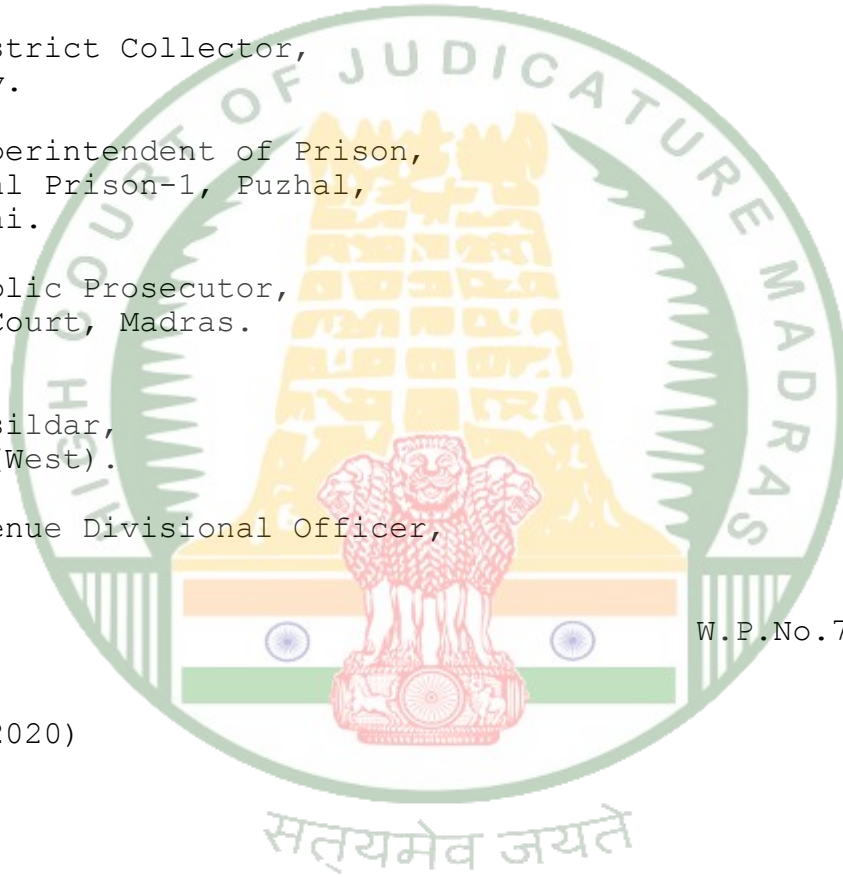
1. The Additional Chief Secretary to Government,
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Chennai.
5. The Public Prosecutor,
High Court, Madras.

Copy to:

- 1.The Tahsildar,
Trichy(West).
- 2.The Revenue Divisional Officer,
Trichy.

VG I (CO)
CB (25/09/2020)

W.P.No.7929 of 2020



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