

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Habeas Corpus Petition Nos. 690, 2233, 2235, 2305 and 2433 of 2017,

Habeas Corpus Petition Nos. 346, 2167, 2179, 2478, 2574 and 2883 of 2018

Habeas Corpus Petition Nos. 28, 29, 64, 107, 124, 738, 808, 882, 1592, 1613, 1674, 1746, 2043, 2174, 2547 and 2909 of 2019

Habeas Corpus Petition Nos. 105, 215, 238, 243 and 270, of 2020

ABITHA BEGAM Petitioner in HCP No.690 of 2017

PERUMAL ... Petitioner in HCP No.2233 of 2017

ANDIYAPPAN ... Petitioner in HCP No.2235 of 2017

N.PALANISAMY ... Petitioner in HCP No.2305 of 2017

K.SARAVANAN ... Petitioner in HCP No.2433 of 2017

AFSATH BIBI ... Petitioner in HCP No. 346 of 2018

UDHAYAKUMAR ... Petitioner in HCP No.2167 of 2018

SHANMUGAM ... Petitioner in HCP No.2179 of 2018

AMMANIYAMMAL ... Petitioner in HCP No.2478 of 2018

S.PADMA ... Petitioner in HCP No.2574 of 2018

SHAMMA ... Petitioner in HCP No.2883 of 2018

VEERAPPAN ... Petitioner in HCP No. 28 of 2019

KRISHNAN ... Petitioner in HCP No.29 of 2019

JEGADEESWARI ... Petitioner in HCP No.64 of 2019

L.PRAVEEN ... Petitioner in HCP No.107 of 2019
P.VASANTHA ... Petitioner in HCP No.124 of 2019
SIVATHY ... Petitioner in HCP No.738 of 2019
CHINNATHAMBI @ PALANISAMY ... Petitioner in HCP No.808 of 2019
S.PONMUTHU ... Petitioner in HCP No.882 of 2019
PECHIAMMAL ... Petitioner in HCP No.1592 of 2019
NAGARAJ ... Petitioner in HCP No.1613 of 2019
K.ARUNA KUMARI ... Petitioner in HCP No.1674 of 2019
K.PREMA DEVI ... Petitioner in HCP No.1746 of 2019
JASMINE ... Petitioner in HCP No.2043 of 2019
MURUGESAN ... Petitioner in HCP No.2174 of 2019
C.MEGALA ... Petitioner in HCP No.2547 of 2019
SUMAIYA BANU ... Petitioner in HCP No.2909 of 2019
ZAHEERA BANU ... Petitioner in HCP No.105 of 2020
THAMARA IKANI ... Petitioner in HCP No.215 of 2020
B.RESHMA ... Petitioner in HCP No.238 of 2020
E.AYYAPPAN ... Petitioner in HCP No.243 of 2020
M.SUNDARI ... Petitioner in HCP No.270 of 2020

सत्यमेव जयते
-Vs-

1. THE STATE OF TAMIL NADU
REP.BY THE SECRETARY TO GOVERNMENT HOME
PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, CHENNAI - 600 009.
- 2 . THE ADDITIONAL DIRECTOR,
GENERAL OF POLICE & INSPECTOR GENERAL OF
PRISONS, GANDHI IRWIN ROAD,
EGMORE ,CHENNAI 600 008.

3. THE SUPERINTENDENT OF PRISON,
SALEM.

... RESPONDENTS in HCP No.690 of 2017,
2478 of 2018, HCP. 2305 of 2017,

1. THE STATE OF TAMIL NADU
REP.BY THE SECRETARY TO GOVERNMENT HOME
PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT,
CHENNAI - 600 009.

2 . THE ADDITIONAL DIRECTOR,
GENERAL OF POLICE & INSPECTOR GENERAL OF
PRISONS, GANDHI IRWIN ROAD,
EGMORE ,CHENNAI 600 008.

3. THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, COIMBATORE.
... RESPONDENTS in HCP No. 2233, 2235,
2433 of 2017,
346 , 2179 of 2018, 808 ,
2174, 2547 of 2019

1. THE STATE OF TAMIL NADU,
REPRESENTED BY ITS SECRETARY,
HOME DEPT, FORT ST GEORGE,
CHENNAI-600 009.

2 . THE SUPERINTENDENT OF CENTRAL PRISON,
PUZHAL I, CHENNAI-600 066.

... RESPONDENTS in HCP No.2167 of 2018,
2909 of 2019

1. THE STATE OF TAMILNADU REP.BY
THE SECRETARY TO GOVERNMENT DEPARTMENT
OF HOME (PRISON), FT.ST.GEORGE,
CHENNAI-600 009..

2 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON COIMBATORE-641 018.

3 THE INSPECTOR OF POLICE ,
VARAPALAYAM POLICE STATION,
GOPIACHETTIPALAYAM, ERODE DISTRICT.

... RESPONDENTS in HCP No.2574 of 2018

1 THE STATE REP BY ITS
THE SECRETARY TO GOVERNMENT OF TAMIL NADU
DEPARTMENT OF HOME, FORT ST GEORGE CHENNAI.

2 THE ADDITIONAL DIRECTOR GENERAL
OF PRISON C.M.D.A. TOWERS EGMORE
CHENNAI.

3 THE SUPERINTENDENT
CENTRAL PRISON KOVAI.

... RESPONDENTS in HCP No.2883 of 2018

1. THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, FORT ST.GEORGE,
CHENNAI - 9

2. THE SUPERINTENDENT OF CENTRAL PRISON ,
CENTRAL PRISON, SALEM DISTRICT.

... RESPONDENTS in HCP No.28, 29 of 2019

1. THE STATE REPRESENTED BY
THE HOME SECRETARY, ST. GEORGE FORT,
CHENNAI- 600 009.

2. THE ADDITIONAL DIRECTOR GENERAL
OF POLICE (HEAD OF THE PRISONS) C.M.D.A.
TOWERS, EGMORE, CHENNAI-600 008.

3. THE SUPERINTENDENT CENTRAL PRISON-I,
PUZHAI, CHENNAI.

... RESPONDENT in HCP No.64, 105 of 2019

1. THE HOME SECRETARY (PRISON)
HOME DEPARTMENT SECRETARIAT FORT ST.GEORGE
CHENNAI-600 009.

2. ADDITIONAL DIRECTOR GENERAL
OF POLICE, AND INSPECTOR GENERAL OF PRISONS
WHANNELS ROAD, EGMORE, CHENNAI-600 008.

3. THE SUPERINTENDENT OF PRISON,
COIMBATORE CENTRAL PRISON,
COIMBATORE DISTRICT.

... RESPONDENTS in HCP No.107 of 2019

1. THE STATE OF TAMILNADU REP.
BY THE SECRETARY HOME DEPARTMENT
SECRETARIAT FORT ST.GEORGE
CHENNAI- 600 009.
2. THE SUPERINTENDENT OF PRISON,
VELLORE CENTRAL PRISON,
VELLORE TAMILNADU. ... RESPONDENTS in HCP No.124 of 2019
1. THE STATE OF TAMIL NADU,
THE ADDITINOAL CHIEF SECRETARY TO GOVT. HOME
(PRISON) DEPARTMENT, TAMIL NADU GOVT. CHIEF
SECRETARIAT, ST GEORGE FORT,
CHENNAI - 600 009.
2. THE D.G.P. IG OF PRISONS
TAMIL NADU PRISON HEAD QUARTERS WHANNELS
ROAD EGMORE CHENNAI - 600 008.
3. THE SUPERINTENDENT,
CENTRAL PRISON-I ,
PUZHAL, CHENNAI - 600 066.
... RESPONDENTS in HCP No.738 of 2019
- 1.THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY HOME (PRISON)
DEPARTMENT, FORT ST.GEORGE, CHENNAI - 9
2. THE ADDITIONAL DIRECTOR GENERAL OF PRISONS,
WANELS ROAD, EGMORE,
CHENNAI - 8
3. THE SUPERINTENDENT OF PRISON,
MADURAI CENTRAL PRISON,
MADURAI 625 016. MADURAI DISTRICT
... RESPONDENTS in HCP No.882 of 2019
1. STATE OF TAMILNADU REP. BY ITS
CHIEF SECRETARY TO GOVERNMENT, HOME
DEPARTMENT (PRISON IV), FORT ST.GEORGE ,
CHENNAI-600 009.
2. ADDITIONAL DIRECTOR GENERAL
OF PRISONS, THALAMUTHU NATARAJAN MAALIGAI
2ND FLOOR, GANDHI IRWIN ROAD, EGMORE,
CHENNAI-600 008.

3. THE SUPERINTENDENT OF CENTRAL PRISON,
CENTRAL PRISON, CUDDALORE,
VANDIPALAYAM POST, CUDDALORE.
... RESPONDENTS in HCP No.1592 of 2019

1. THE STATE OF TAMILNADU REP.
BY THE SECRETARY TO GOVERNMENT HOME
PROHIBITION AND EXCISE DEPARTMENT
SECRETARIAT CHENNAI-600 009.

2. THE DIRECTOR GENERAL OF PRISONS,
GANDHI IRWIN ROAD EGMORE,
CHENNAI-600008.

3. THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, TRICHY-20
... RESPONDENTS in HCP No.1613 of 2019

1. THE STATE OF TAMIL NADU REP.
BY THE SECRETARY TO GOVERNMENT HOME
PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, CHENNAI-600 009.

2. THE DIRECTOR GENERAL OF POLICE,
INSPECTOR GENERAL OF PRISONS, GANDHI
IRWIN ROAD, EGMORE, CHENNAI-600 008.

3. THE SUPERINTENDENT OF PRISONS,
CENTRAL PRISON , VELLORE-2.

4. THE SUPERINTENDENT OF PRISONS
CENTRAL PRISON KADAPPA,
ANDRAPRADESH.

... RESPONDENTS in HCP No.1674 of 2019

1. THE STATE REP.BY ITS
THE SECRETARY TO GOVERNMENT OF TAMILNADU
DEPARTMENT OF HOME,
FORT ST.GEORGE CHENNAI- 600 009.

2. THE ADDITIONAL DIRECTOR GENERAL
OF PRISON C.M.D.A. TOWERS EGMORE,
CHENNAI-600 008.

3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

... RESPONDENTS in HCP No.1746 of 2019

1. THE STATE OF TAMIL NADU
REPRESENTED BY ITS SECRETARY HOME
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2. THE SUPERINTENDENT OF CENTRAL
PRISON, COIMBATORE CENTRAL PRISON,
COIMBATORE DISTRICT.

... RESPONDENTS in HCP No.2043 of 2019

1. THE GOVERNMENT OF TAMIL NADU, REP. BY ITS
SECRETARY TO GOVERNMENT, HOME
DEPARTMENT (PRISON IV), FORT ST. GEORGE ,
CHENNAI-600 009.

2. THE ADDITIONAL DIRECTOR GENERAL
OF POLICE, MAALIGAI
2ND FLOOR, GANDHI IRWIN ROAD, EGMORE,
CHENNAI-600 008.

3. THE SUPERINTENDENT OF CENTRAL PRISON,
CENTRAL PRISON, CUDDALORE,
VANDIPALAYAM POST, CUDDALORE.

... RESPONDENTS in HCP No.1592 of 2019

1. THE HOME SECRETARY (PRISON ADMINISTRATION)
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-9.

2. THE ADDL. DIRECTOR GENERAL OF PRISON,
THALAMUTHU NATRAJAR MALIGAI,
GANDHI IRWIN ROAD, EGMORE CHENNAI.

3. THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

... RESPONDENTS in HCP No.215, 238 of 2020

1. STATE OF TAMIL NADU
REP. BY ITS ADDITIONAL CHIEF SECRETARY HOME
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2. ADDITIONAL DIRECTOR GENERAL
OF POLICE , PRISONS DEPARTMENT, WANNELS ROAD,
EGMORE, CHENNAI-8.

3. THE SUPERINTENDENT OF CENTRAL,
PRISON,
CENTRAL PRISON, COIMBATORE.

... RESPONDENTS in HCP No.243 of 2020

1. THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO THE GOVERNMENT,
HOME (PRISON IV) DEPARTMENT, SECRETARIAT,
CHENNAI-9.
- 2 THE INSPECTOR GENERAL OF PRISONS,
OFFICE OF THE INSPECTOR GENERAL OF
PRISONS, CHENNAI-8.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE-607401.

... RESPONDENT in HCP No.270 of 2020

Prayer in HCP No.690 of 2017: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioners husband RAHAMATHULLAKHAN, S/O. JHALALUDEEN AGED 44 YEARS, L.C.T.NO.7369 now confined in Central Prison, Palayamkottai, Thirunelveli District before this Hon'ble Court and directing the respondent to consider him under G.O.M.S.NO.1155 Home (Prison-Iv) Department dated 11.09.2008, for premature release and set at liberty.

Prayer in HCP No.2233 of 2017: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondent to produced the petitioner namely Perumal S/o.Kandinayagan, C.T.No.11456, Life convict, aged about 65 years, now confined in the Central Prison, Coimbatore before the Honble Court and further directing the respondents to consider the petitioner immediately for premature release and set him at liberty.

Prayer in HCP No.2235 of 2017: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely Andiyappan S/o.Thandavan, C.T.No.2784, Life convict, aged about 65 years now confined in the Central Prison, Coimbatore before the Honble Court and further directing the respondents to consider the petitioner immediately for premature release and set him at liberty.

Prayer in HCP No.2305 of 2017: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the Respondents to consider under suspension of sentence Rules 1983 in Nos 632, 633 and 634 to the detenue, P.Eswaran, life convict prisoner, bearing Convict no.7542. undergoing sentence of life imprisonment at central prison Salem, before this Honble court and set him at liberty.

Prayer in HCP No.2433 of 2017 : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondent to secure the detainee K.SARAVANAN, S/O. KANTHASAMY, 50 YRS,, produce him/her before this Hon'ble Court and set at liberty.

Prayer in HCP No.346 of 2018 : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to consider the petitioner's husband by name S.A.Nawab Khan (Prisoner No.10663), son of Abdhul Rahmaan, aged about 52 years, who is confined in Central Prison, Coimbatore for premature release from the prison under the G.O.(Ms)No.64 Home(Prison-IV) Department dated 01.02.2018, set him at liberty

Prayer in HCP No.2167 of 2018: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produce the detainee Mahadevan@ Madhavan, S/o.Govindasamy, now confined at Central Prison, Puzhal-1, Chennai on premature release priority, on the basis of release of his Co-accused VIJI and SET HIM AT LIBERTY to secure the ends of justice.

Prayer in HCP No.2179 of 2018: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely Shanmugam, S/o. Chinnakaruppan, Life Convict, CT.No. 1138 , aged about 40 years, now confined in the central prison, Coimbatore before the Honble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.64 Home (Prison-IV) Department dated 01.02.2018, for premature release and set him at liberty.

Prayer in HCP No.2478 of 2018: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely, Ammaniyammal, W/O.Naganthan aged about 66 years, Life Convict, confined in the Central Prison for Women Trichy 8 before the Honble Court and directing the respondensts to consider the petitioner immediately for premature release and set her at liberty

Prayer in HCP No.2574 of 2018 :Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents herein to produce the body of the petitioners husband Kurudan @ Subramaniam (Convict No.8472) who is confined at Central Prison, Coimbatore, before this Hon'ble Court and set him at liberty by granting the benefit of premature release as per G.O. (Ms) No.64, dated 01.02.2018 issued by the 1st respondent.

Prayer in HCP No.2883 of 2018: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondent to release petitioner husband, the detainee Aslam S/O.Jainulapudin, Convict No.18819 detainee at Central Prison, Kovai Prematurely in the light of the G.O.(MS) 64 dated 01.02.2018.

Prayer in HCP No.28 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents 1 and 2 to consider the case of the petitioner viz. Veerappan, s/o.Thirupathi, who has undergone imprisonment for more than 20 years at Central Prison, Salem, as life convict for premature release and set him at liberty

Prayer in HCP No.29 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents 1 and 2 to consider the case of the petitioner viz. Krishnan, s/o.Arumugham, who has undergone imprisonment for more than 20 years at Central Prison, Salem as life convict for premature release and set him at liberty

Prayer in HCP No.64 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to release the Petitioners husband Mani @ DravidaMani S/o.Annappan aged 53 years Convict No.531, a life convict confined in Central Prison-I, Puzhal, Chennai, Prematurely on the basis of the Government Order passed in G.O. (M.S)No.64 dated 01.02.2018 to secure the ends of justice

Prayer in HCP No.107 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produce the petitioners father namely Logendran@Loganathan, S/o.Dharmalingam, Life Convict No.1024 A/40 Yrs detain in Coimbatore Central Prison, Coimbatore before this Hon'ble court and directing the respondents to consider him under G.O.Ms. No.64 dated on 01.02.2018.

Prayer in HCP No.124 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produce the body of petitioner husband Mr.Paul Pandi alias Nataraj, presently confined at the Central Prison, Vellore as Life convict No.23937 and set him at liberty from custody as per G.O.MS.No 64 Home (Pri.IV) Department date 01.02.2018.

Prayer in HCP No.738 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produce in person before this Honble Court the detainee KAMALANANDA S/O.RASANAYAGAM bearing L.CT.No.4220 aged about 70/2019 years, a life convict prisoner presently

confined at Central Prison-I, Puzhal, Chennai and thereby to Release him prematurely as per the Government Letter (MS) No.1358/Home Department/1994 dated 10.11.1994

Prayer in HCP No.808 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely Chinnathambi@Palanisamy, S/o.Kaliyannakoundar, Life convict, Ct.No.7084, now confined in the Central Prison, Coimbatore before the Honble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.64 Home (Prison-IV) Department Dated 1.2.2018, for premature release and set him at libery.

Prayer in HCP No.882 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying, to direct the respondents to consider the representation of the petitioner dated 6.3.2019 to produce the detenue T.Shankar S/o.Thiyagarajan aged 43 years now confined at Central Prison Madurai before this Honourable Court based on G.O.Ms.No.64/2018 on humane consideration to secure the ends of justice.

Prayer in HCP No.1592 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records in connection with order in the a G.O(D) No.632 dt 21.6.2019 and set aside the same, and consider petitioners husband premature release in accordance with G.O in MS No.64 dt 01.2.2018 and consequently direct the respondents to produce the body of her husband Damodaran before this Hon'ble Court and set him at Liberty from their custody forthwith under the provisions of Articles 14 and 21 of the Indian Constitution

Prayer in HCP No.1613 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely, Nagaraj S/o.Nachimuthu A/60 Yrs C.T.No.20151 now confined in Central Prison, Trichy before the Honble Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.64 Home (Prison-IV) Department dated 1.2.2018, for premature release and set him at liberty.

Prayer in HCP No.1674 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioners husband namely, K.Sahadeva Reddy, S/o.K.Venkata Reddy, Life Convict, Ct.No.2429, initially confined in the Central Prison, Vellore, now confined in the Central Prison, kadapa, Andra Pradesh before the Hon'ble Court and directing the respondents 1 and 2 to consider the petitioner's husband immediately under the G.O.Ms.No.64 Home (Prison - IV) Department Dated 1.2.2018, for premature release

and set him at liberty.

Prayer in HCP No.1746 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records pertaining to the impugned order G.O.(D) No.720, issue by the 1st respondent dated 03.07.2019 and to quash the same and consecutively direct the respondents to premature release the detainee, S.Kannan, S/o.Subramani, life convict No.20124, confined at central prison Trichy as per the G.O.(MS). No.64 , dated 01.02.2018

Prayer in HCP No.2043 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records made in G.O.Ms.(D).No.749, Home (Prison IV) Department, Chennai-9 dated 8.7.2019 and QUASH the same as illegal and Direct the Respondents to produce the Detenue BABU @ OOMAI BABU, Son of Yusuf, Life Convict C.T.No.17147, now confined at Central Prison, Coimbatore, before this hon'ble court and set him at Liberty

Prayer in HCP No.2174 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produced the petitioner namely Murugesan S/o.Andal Karuppusamy, Life Convict Ct.No.70535, now confined in Central prison, Coimbatore before the Honble court and court and directing the respondents to consider the petitioner immediately under the policy of Tamil Nadu date 10.11.94 and the said G.O.64, for premature release and set him at libery.

Prayer in HCP No.2547 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to produce the petitioner brother Mr.Ravikumar Life convict No.74003 (G.O.(M.S.64) Home (Prison-IV)who is confined in Central Prison Coimbatore for the past 20 years for premature release and set hmi at liberty. before this Honourable Court and directing the respondent to consider him under the

Prayer in HCP No.2909 of 2019: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records pertaining to the impugned order G.O.(D) No.1086 issued by the 1st respondent dated 18.09.2019 and to quash the same and consecutively direct the respondents to release the detainee, M.M.Hakim, S/o.Mohammed Malungu, life convict No.4660, prematurely, confined at central prison Puzhal-I, Chennai, as per the G.O.(Ms) No.64, dated 01.02.2018.

Prayer in HCP No.105 of 2020: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the 1st respondent to call for the records pertaining to the impugned order G.O.(D).No.1086 issue by the 1st respondent dated

18.09.2019 and to quash the same and consecutively direct the respondents to release the detainee, Umar Bharukh (a) Muhaideen Abdul Kadhar, S/o Luthbullah, life Convict No.6045, prematurely confined at central prison Puzhal-I, Chennai, as per the G.O.Ms.No.1155, dated 11.09.2008 and also G.O.(Ms).No.64, dated 01.02.2018

Prayer in HCP No.215 of 2020: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents herein to release the petitioner son Rajkumar, son of Duraiswamy (C.T.No.13131) who is confined in third respondent prison and directing the respondents to treat the petitioner son Rajkumar son of Duraiswamy (C.T.No.13131) who is confined third respondent prison and directing the respondents to treat the petitioners son Rajkumar son of Duraiswamy (C.T.No.13131) as an eligible life Convict Prisoner for premature release by G.O.Ms.No.64, Home department dated 01.02.2018

Prayer in HCP No.238 of 2020: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the respondents to release the petitioners father Babu S/o.Abdul Jaffer C.T.No.1937 who is confined in third respondent prison and directing the respondents herein to treat the petitioners father Babu s/o Abdul Jaffer C.T.No.1937 eligible life Convict Prisoner for premature release by giving effect to the G.O.Ms.No.64, (Prison IV) dated 01.02.2018

Prayer in HCP No.243 of 2020: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to direct the Respondents 1 to 3 to produce petitioner brother, the detainee Manikandan, S/o.Elango, aged about 42 years life convict No.22330 who is now confined in Central Prison, Coimbatore before this Honourable Court and directing the Respondents to consider under G.O.Ms.No.64, Home (Prison IV) Department dated 01.02.2018 for his premature release and set him at liberty.

Prayer in HCP No.270 of 2020: Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records of 1st respondent in connection with G.O.(D) No.1373 Dated 14.11.2019 and quash the same and produce the petitioner Father one M.Balu S/o.Muthukumar aged about 55 years who is now detained in Central Prison, Cuddalore before this Hon'ble Court and directing the respondent to consider to him under G.O.Ms.No.64, Home Prison-IV Department dated on 01.02.2018 for premature release and set him at liberty.

For Petitioners:

M/S. M.RADHA KRISHNAN FOR

M/S P.PUGALENTHI

- HCP No.690, 2233, 2235, 2433 of 2017, 2179,
2478 of 2018, 1613 , 1674 , 2174 of 2019

M/s. R.NARAYANAN

- HCP No.2305 of 2017

M/s C.D.SUGUMAR

- HCP No.346 of 2018

M/s R.SANKARASUBBU

- HCP No.2167 of 2018

M/s. N.MANOKARAN

- HCP No.2574 of 2018,

M/s DR.S.MANOCHARAN

- HCP No.2883 of 2018, 1746 ,
2909 of 2019, 105 of 2020

M/s S.SHUNMUGA VELAYUTHAM FOR

M/s VIJAYARAGAVAN T. - HCP No.28, 29 of 2019

M/s D.MARIOJOHNSON

- HCP No.64 of 2019

M/s P.MUTHAMIZH SELVA KUMAR

- HCP No.107 of 2019

M/s D.GEETHA

- HCP No.124 of 2019

M/s D.MARIOJOHNSON

- HCP No.738 of 2019

M/s P.PUGALENTHI

- HCP No.808 of 2019

M/s SHANMUGAM K.

- HCP No.832 of 2019

M/s S.SENTHIL VEL

- HCP No.832 of 2019

M/s. R.VIVEKANANTHAN

- HCP No.1592 of 2019

M/s R.SANKARASUBBU

- HCP No.2043 of 2019

M/s T.MURUGANANTHAM

- HCP No.215, 238 of 2020

M/s T.VIJAYARAGHAVAN

- HCP No.243 of 2020

M/s P.SARAVANAN

- HCP No.270 of 2020

For Respondents:

M/s C.EMALIAS, Additional Advocate General
Assisted by M/s R.Prathap Kumar
Additional Public Prosecutor.

..... in all HCPs.

COMMON ORDER

(Order of the Court was made by R. Subbiah, J)

These Habeas Corpus Petitions are filed by the petitioners, seeking to release the respective detenu, who is undergoing sentence of imprisonment imposed by a Court of competent jurisdiction in various prisons across the State, by extending the benefit of G.O. (Ms) No.1155, Home (Prison-IV) Department dated 11.09.2008 and similar other Government Orders issued by the State for pre-mature release of the convicts.

2. The Governor of Tamil Nadu, in exercise of power conferred under Article 161 of the Constitution of India, issued various Government Orders, from time to time, to remit the unexpired portion of sentence imposed on the life convicts undergoing incarceration across various Prisons in the State for their pre-mature release. In these batch of cases, the petitioners would contend that the respective detenu, undergoing incarceration in various prisons across the State, is entitled to be considered for pre-mature release on the basis of the order passed by the Government. However, the claim of the petitioners for such pre-mature release has not been considered by the Government and therefore, the petitioners have come up with the present Habeas Corpus Petitions.

3. The core question involved in these Habeas Corpus Petition for determination is whether the Habeas Corpus Petitions are maintainable and a direction can be issued to the respective respondents for pre-mature release of a detenu, by declaring the detention of the detenu as illegal, when he/she has been convicted by a competent Court, after due trial.

4. In this context, the learned Additional Public Prosecutor appearing for the respondents brought to the notice of the latest decision rendered by the Honourable Supreme Court on 23.01.2020 in Criminal Appeal No. 144 of 2020 in the case of (The Home Secretary (Prison) and others Vs. H. Nilofer Nisha) wherein it was held that a Habeas Corpus Petition for pre-mature release of a life convict is not maintainable when his or her conviction is on the basis of the Judgment passed by a Competent Court of Jurisdiction after due trial. In Para Nos. 14, 29, 30

and 31, it was held by the Honourable Supreme Court as follows:-

"14. It is a settled principle of law that a Writ of habeas corpus is available as a remedy in all cases where a person is deprived of his/her personal liberty. It is processual writ to secure liberty of the citizen from unlawful or unjustified detention, whether a person is detained by the State or is in a private detention. As Justice Hidayatullah (as he then was) held: "The writ of habeas corpus issues not only for release from detention by the State but also for release from private detention. At the same time, the law is well established that a writ of habeas corpus will not lie and such a prayer should be rejected by the Court where detention or imprisonment of the person whose release is sought for is in accordance with the decision rendered by a court of law or by an authority in accordance with law.

.....

29. Learned Senior counsel for the detenus while referring to Rules 11, 12 and 13 submitted that unless the petitioners in terms of Rule 12 mentions the detention order, name of the prison where the detenu is detained, prison number and does not challenge the order of detention, the writ would not be entertained. What description has to be given to a writ is for the High Court to decide. But the Rules cannot confer jurisdiction which is not conferred by the constitution. We are even otherwise unable to accept the argument of the learned Senior counsel for the detenus because the Rules obviously deal with cases of detention/preventive detention where the detenu is under custody. If that custody is legal then obviously no writ of habeas corpus can be issued for release of the detenu. We are also of the view that merely because the Rules provide that in the petition details of the detention order, prison etc., have to be given does not mean that the writ of habeas corpus cannot be issued where the Rules are silent. The Rules cannot override the Constitution.

30. As already mentioned above, it is well settled law that even if the detenu is in private detention then also a writ of habeas corpus petition would lie. If the Rules are to be the masters and not the constitution, then, probably in the Madras High Court no writ of habeas corpus would be entertained in the case of private detention. This would be against the spirit of the

constitution of India. Therefore, we are clearly of the view that reference to the Rules is of no aid whatsoever.

31. The issue before us in the present case is whether the High Court can direct the release of a petitioner under G.O. (Ms) No.64 dated 01.02.2018. We do not think so. In all these cases, representations made by the detenus had not been decided. In our view, the proper course for the Court was to direct that the representations of the detenus be decided within a short period. Keeping in view the fact that the Scheme envisages a report of the Probation Officer, a reference by the District Level Committee and thereafter the matter has to be placed before the concerned Range Deputy Inspector General and before Regional Probation Officer and thereafter before the State Level Committee, we feel that it would be reasonable to grant 2 - 3 months depending on the time when the representation was filed for the State to deal with them. When the petition is filed just a few days before filing the representation then the Court may be justified in granting up to 3 months' time to consider the same. However, if the representation is filed a couple of months earlier and the report of the Probation Officer is already available then lesser time can be granted. No hard and fast timelines can be laid down but the Court must give reasonable time to the State to decide the representation. We are clearly of the view that the Court itself cannot examine the eligibility of the detenu to be granted release under the Scheme at this stage. There are various factors, enumerated above, which have to be considered by the committees. The report of the Probation Officer is only one of them. After that, the District Committee has to make a recommendation and finally it is the State Level Committee which takes a final call on the matter. We are clearly of the view that the High Court erred in directing the release of the detenu forthwith without first directing the competent authority to take a decision in the matter. Merely because a practice has been followed in the Madras High Court of issuing such type of writs for a long time cannot clothe these orders with legality if the orders are without jurisdiction. Past practice or the fact that the State has not challenged some of the orders is not sufficient to hold that these orders are legal."

5. Thus, it is evident from the above decision of the Honourable Supreme Court that this Court cannot decide the eligibility of a detenu for his or her pre-mature release by issuing a Writ of Habeas Corpus. We are also of the opinion that it is a matter for the Government to take a final call for pre-mature release of a detenu by considering various factors. Therefore, the prayer sought for in these Habeas Corpus Petition to produce the respective detenu before this Court and to set him or her at liberty by extending them the benefit of the order of the State Government for grant of pre-mature release cannot be countenanced. As observed by the Honourable Supreme Court, in cases of this nature, where a fundamental right or personal liberty of a detenu is not deprived, a Writ of Habeas Corpus cannot be issued especially when the detention of the detenus in these cases is on the basis of a Judgment of conviction passed by the competent Court having jurisdiction.

6. In the result, all the Habeas Corpus Petitions are dismissed. No costs. Consequently, connected miscellaneous petition(s) is/are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. THE SECRETARY,
STATE OF TAMIL NADU,
HOME PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, CHENNAI - 600 009.
- 2 . THE ADDITIONAL DIRECTOR,
GENERAL OF POLICE & INSPECTOR GENERAL OF
PRISONS, GANDHI IRWIN ROAD,
EGMORE , CHENNAI 600 008.
3. THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, COIMBATORE.
4. THE SECRETARY,
THE STATE OF TAMIL NADU,
HOME DEPT, FORT ST GEORGE,
CHENNAI-600 009.

5. THE SUPERINTENDENT OF CENTRAL PRISON,
PUZHAI, CHENNAI-600 066.
6. THE SECRETARY,
STATE OF TAMIL NADU, DEPARTMENT
OF HOME (PRISON), FT.ST.GEORGE,
CHENNAI-600 009..
8. THE INSPECTOR OF POLICE ,
VARAPALAYAM POLICE STATION,
GOPIACHETTIPALAYAM, ERODE DISTRICT.
9. THE ADDITIONAL DIRECTOR GENERAL OF PRISON,
C.M.D.A. TOWERS EGMORE ,
CHENNAI.
10. THE SUPERINTENDENT,
CENTRAL PRISON, KOVAI.
11. THE SUPERINTENDENT OF CENTRAL PRISON ,
CENTRAL PRISON, SALEM DISTRICT.
12. THE HOME SECRETARY,
ST. GEORGE FORT,
CHENNAI- 600 009.
13. THE ADDITIONAL DIRECTOR GENERAL
OF POLICE (HEAD OF THE PRISONS) C.M.D.A.
TOWERS, EGMORE, CHENNAI-600 008.
14. THE HOME SECRETARY (PRISON)
HOME DEPARTMENT SECRETARIAT FORT ST.GEORGE ,
CHENNAI-600 009.
15. THE SUPERINTENDENT OF PRISON,
VELLORE CENTRAL PRISON,
VELLORE TAMILNADU.
16. THE ADDITIONAL CHIEF SECRETARY TO GOVT. HOME
(PRISON) DEPARTMENT, TAMIL NADU GOVT. CHIEF
SECRETARIAT, ST GEORGE FORT,
CHENNAI - 600 009.
17. THE D.G.P. IG OF PRISONS
TAMIL NADU PRISON HEAD QUARTERS WHANNELS
ROAD EGMORE CHENNAI - 600 008.
18. THE ADDITIONAL DIRECTOR GENERAL OF PRISONS,
WANELS ROAD, EGMORE,
CHENNAI - 8

- 19.THE SUPERINTENDENT OF PRISON,
MADURAI CENTRAL PRISON,
MADURAI 625 016. MADURAI DISTRICT
- 20.THE ADDITIONAL DIRECTOR GENERAL
OF PRISONS, THALAMUTHU NATARAJAN MAALIGAI
2ND FLOOR, GANDHI IRWIN ROAD, EGMORE,
CHENNAI-600 008.
- 21.THE SUPERINTENDENT OF CENTRAL PRISON,
CENTRAL PRISON, CUDDALORE,
VANDIPALAYAM POST, CUDDALORE.
- 22.THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, TRICHY-20
- 23.THE DIRECTOR GENERAL OF POLICE,
INSPECTOR GENERAL OF PRISONS, GANDHI
IRWIN ROAD, EGMORE, CHENNAI-600 008.
- 24.THE SUPERINTENDENT OF PRISONS
CENTRAL PRISON KADAPPA,
ANDRAPRADESH.
- 25.THE HOME SECRETARY (PRISON ADMINISTRATION)
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-9.
- 26.THE INSPECTOR GENERAL OF PRISONS,
OFFICE OF THE INSPECTOR GENERAL OF
PRISONS, CHENNAI-8.
- 27.THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE-607 401.

+1cc to Mr.T.Vijayaraghavan, Advocate, S.R.No. 9915
+1cc to Mr.R.Vivekananthan, Advocate, S.R.No. 9784
+1cc to Mr.N.Manokaran, Advocate, S.R.No. 10146
+3cc to Mr.T.Vijaya Raghavan, Advocate, S.R.No. 9913, 9912, 9914
+1cc to Mr.D.Geetha, Advocate, S.R.No. 10933

HCP No. 690/2017 etc., batch

RP(CO)
GN(21/07/2020)