



WEB COPY

W.P.(MD)No.4362 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.03.2021**

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

W.P. (MD)No.4362 of 2021

D.Govindammal

: Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by The Principal Secretary to Government,
Home (Prison) Department,
Tamil Nadu Government Chief Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Additional Director General of Prison/
Inspector General of Prison,
C.M.D.A Towers, II,
Egmore,
Chennai - 600 008.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents to consider "premature release" for petitioner's son namely D.Prakash aged about 41 years now confined at Central Prison, Madurai as life convict No.5322 in terms of G.O.(Ms).No.64, Home (Prison IV) Department, dated 01.02.2018 and set him at liberty forthwith by extending the benefit to petitioner's son as per the clarification letter / Memo.No.14189/W.1/ 1989 issued by Inspector / Director General of Prisons dated 04.11.1989 and on the light of the verdict made in Criminal Appeal No.120 of 2019 by the Apex Court and on considering the representation of the petitioner dated 05.07.2019 within a period that may be stipulated by this Court.

For Petitioner : Mrs.P.Yasmin Begum
For Respondents : Mr.R.Anandharaj
Addl. Public Prosecutor



ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J)

The petitioner has come forward with this writ petition seeking for issuance of a Writ of Mandamus directing the respondents to consider "premature release" for her son namely, D.Prakash aged about 41 years now confined at Central Prison, Madurai as Life Convict No.5322 in terms of G.O.(Ms).No.64, Home (Prison IV) Department, dated 01.02.2018 and set him at liberty forthwith by extending the benefit to her son as per the clarification letter/Memo.No.14189/W.1/1989 issued by Inspector / Director General of Prisons dated 04.11.1989 and on the light of the verdict made in Criminal Appeal No.120 of 2019 by the Apex Court and by considering her representation dated 05.07.2019.

2.The learned counsel for the petitioner Mrs.P.Yasmin Begum would submit that the petitioner's son was an accused in S.C.No.161 of 1998 for the offence under Sections 449, 394 r/w 397, 302 r/w 34 of IPC. The trial Court found him guilty and accordingly, sentenced him to undergo 10 years R.I under Section 449 IPC, 10 years R.I under Section 394 r/w 397 and life imprisonment with fine under Section 302 IPC r/w 34 IPC. The conviction and sentence was confirmed by the High Court in C.A.No.527 of 2003. As such he has been undergoing sentence.

3.The learned counsel further submitted that during his imprisonment, the convict has completed Diploma course in Desk Top Publishing in Tamil Nadu Open University and Bachelors and Master Degrees in B.B.A., M.B.A., M.Com in open university. It is also submitted that the petitioner is suffering kidney problem and hence, a representation was made for premature release. As per the direction issued by this Court in the case of **P.Veera Bharathi vs. State of Tamil Nadu** in **HCP(MD)No.540 of 2016**, the petitioner is eligible for consideration of premature release under Rule 341(2). Notwithstanding the fact that the direction issued in the case of **Veera Bharathi** has been upheld by the Hon'ble Apex Court in SLP No.5333 of 2018, the representation of the petitioner dated 05.07.2019 has not been considered till date.

4.The learned Additional Public Prosecutor Mr.R.Anandharaj would state that the representation of the petitioner is pending with the Government and they are ready to pass orders in accordance with law.

5.In the light of the above facts and the submissions of the learned counsel appearing on either side, this Court, without going into the merits of the matter, directs the first respondent to pass orders on the representation of the petitioner, dated 05.07.2019, purely on merits and in accordance with law within a period of eight



weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Principal Secretary to Government,
Home (Prison) Department,
Tamil Nadu Government Chief Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Additional Director General of Prison/
Inspector General of Prison,
C.M.D.A Towers, II,
Egmore,
Chennai - 600 008.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.YASMIN BEGUM, Advocate (SR-14295[F] dated 30/03/2021

W.P. (MD)No.4362 of 2021
29.03.2021

MJ(CO)

KB(27.04.2021) 3P 6C