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W.P.(MD)No.7962 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGOVA

W.P. (MD)No.7962 of 2021

Thavamani, W/o.Udayali

... Petitioner

-vs-

- 1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home (Prison-IV) Department,
State of Tamil Nadu,
Secretariat,
St. George Fort,
Chennai - 9.
 - 2.The Additional Director General of Police/
Inspector General of Prisons,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Egmore,
Chennai - 8.
 - 3.The Deputy Inspector General of Prison,
Office of the Deputy Inspector General of Prison,
Madurai Division,
Madurai Central Prison Campus, Madurai - 16.
 - 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's husband, by name Udayali, son of Subramani, aged about 52 years, now lodged and confined at Central Prison, Madurai, have completed more than 20 years of actual sentence on the basis of humanitarian ground in G.O.(Ms)No.428, Home (Prison-IV) Department, dated 29.07.2011, by considering the petitioner's representation, dated 25.03.2021, in accordance with law, within the time limit to be stipulated by this Court.

For Petitioner : Mr.R.Prakash

For Respondents : Mr.S.Ravi

Standing Counsel for Tamil Nadu Government



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

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Heard Mr.R.Prakash, learned counsel appearing for the petitioner and Mr.S.Ravi, learned Standing Counsel appearing for the respondents and perused the materials available on record.

2.The petitioner has come forward with this Writ Petition seeking issuance of a Writ of Mandamus directing the respondents to release the petitioner's husband viz., Udayali, aged about 52 years, now confined at Central Prison, Madurai, on the basis of her representation, dated 25.03.2021.

3.It is the case of the petitioner that the convict viz., Udayali is her husband and he was tried for the offences under Sections 376(1) and 302 I.P.C. in S.C.No.231 of 1998 and was convicted and sentenced to undergo life imprisonment for the offence under Section 376(1) I.P.C. and also sentenced to undergo life imprisonment for the offence under Section 302 I.P.C. In appeal in CrI.A.(MD)No.266 of 2004, this Court, vide judgment dated 24.06.2004, confirmed the said conviction and the sentence.

4.The petitioner would claim that in H.C.P.(MD)No.347 of 2017, this Court issued direction to the authorities to produce her husband before the Advisory Board, for premature release, but the same was not complied with. She would further state that one Raju @ Subburaj, S/o.Perumalsamy, who is similarly placed that of her husband, was released on humanitarian ground, vide Government Order in G.O.(Ms)No.428, Home (Prison-IV) Department, dated 29.07.2011. The grievance expressed by the petitioner is that even though her husband has completed 20 years of actual imprisonment, her representation for premature release was not considered.

5.The learned Standing Counsel appearing for the State Mr.S.Ravi would argue that since the husband of the petitioner Udayali suffered conviction under Sections 376(1) IPC and 302 IPC and he was sentenced to undergo life imprisonment for the above said offences, he is not entitled for premature release. It is also stated that the Judgment of the Hon'ble Apex Court reported in **(2019)2 Scale 225 (State of Tamil Nadu vs. P.Veera Bharathi)**, will have no application to the present case, however, the representation of the petitioner will be disposed of on merits and in accordance with rules.

6.Mr.R.Prakash, learned counsel appearing for the petitioner would submit that it would suffice, if a direction is issued to the



first respondent to dispose of the representation of the petitioner.

7. In the light of the abovesaid submissions made by the learned counsels, this Court without going into the merits of the matter, directs the first respondent to pass orders on the representation of the petitioner, dated 25.03.2021, purely on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (cS-I)

// 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 of Tamil Nadu,
Home (Prison-IV) Department,
Secretariat,
St. George Fort, Chennai - 9.

2. The Additional Director General of Police/
Inspector General of Prisons,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Egmore, Chennai - 8.

3. The Deputy Inspector General of Prison,
Office of the Deputy Inspector General of Prison,
Madurai Division,
Madurai Central Prison Campus,
Madurai - 16.

4. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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