



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2021

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

W.P(MD)No.10391 of 2021

and

W.M.P(MD)No.8075 of 2021

Vitti @ Samraj
S/o.Ponraj,
Life Convict Prisoner No.4544
Central Prison,
Madurai.

... Petitioner

Vs.

- 1.The Secretary to Government
Home (Prison-IV) Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-9.
- 2.The District Collector,
Tirunelveli.
- 3.The Commissioner of Police,
Tirunelveli City.
- 4.The Regional Probation Officer,
Tirunelveli.
- 5.The Superintendent of Central Prison,
Madurai.

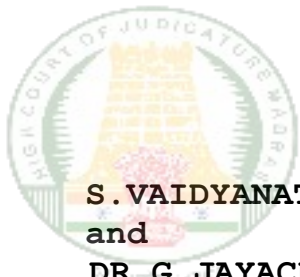
... Respondents

PRAYER: The Writ Petition filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in G.O(D) No.413, Home (Prison-IV) Department, dated 26.03.2021 and quash the same and consequent direction may be issued to the respondents to release the petitioner forthwith.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.S.Ravi

Additional Public Prosecutor



JUDGMENT

S. VAIDYANATHAN, J.
and
DR. G. JAYACHANDRAN, J.

WEB COPY

The petitioner herein is a Life Convict No.4544. The Fast Track Court No.II, Tirunleveli found the petitioner guilty for an offence under Section 302 r/w 34 IPC in S.C.No.635 of 2001 and sentenced to undergo Life Imprisonment. Subsequently, from prison he escaped, hence prosecuted in S.C.No.3101 of 2003 and found guilty for an offence under Section 224 IPC and sentenced to undergo two years Rigorous Imprisonment and imposed a fine of Rs.10,000/-. Since he has completed 21 years of imprisonment, his case was placed before the Advisory Board on 24.10.2017 for considering his premature release. Though the Probation Officer recommended for his premature release, the Advisory Board, on cumulative conduct of the petitioner, his past records and other attendant circumstances, rejected the case of the petitioner herein for premature release and passed the impugned order in G.O(D) No.413, Home (Prison-IV) Department, dated 26.03.2021. The said order is under challenge before us.

2.The learned counsel for the petitioner would submit that the case of the petitioner for premature release was declined by the State, since the Advisory Board did not recommend for premature release on two grounds. Firstly, the petitioner escaped from the prison custody once. Secondly, the convict if released prematurely, there will be a chance of occurrence in the area since convict family is still residing at the same locality, where the victim also resides.

3.The learned counsel for the petitioner would further submit that the two reasons stated for not recommending the premature release is ill-founded. Primarily, for the escape from the prison custody, the petitioner was found guilty and convicted to undergo Rigorous Imprisonment for a period of two years. Since he has already been punished for the said offence, he cannot be penalised again. Secondly, the petitioner's family which was then residing in the locality has shifted and they are no more in the said locality and therefore, there cannot be any apprehension of recurrence of problem in that area.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondents would submit that the Advisory Board, which was convened on 24.07.2017, had taken into consideration of the cumulative facts required for considering the premature release of the Life Convict and found that the petitioner is not fit for premature release due to his past conduct and the other reasons specifically stated in the impugned order. Since there is no infirmity, illegality or non-consideration of material facts, the impugned order cannot be subjected to judicial review in a writ



petition.

5. This Court, on careful consideration of the impugned order and the submissions made by the learned counsels, finds that the petitioner herein, who suffers Life Imprisonment, while in prison tried to escape from the prison and been tried for that offence and found guilty. That apart, the recurrence of problem in the area if his premature release also been apprehended and cited as a reason for not recommending his premature release.

6. The reasons appears to be reasonable and the scope of judicial review of an executive order of this nature is very limited, the Court cannot look into the reasonableness of the reasons stated in an Executive Order.

7. Hence, this Court finds no malafide or material irregularity or omission of the material facts in the impugned order. Hence, the writ petition is dismissed.

8. However, the dismissal of this writ petition will not stand in the way of the Executive to consider the case of the petitioner for premature release, if he is found eligible in future. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

To

- 1.The Secretary to Government
Home (Prison-IV) Department,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai-9.
- 2.The District Collector,
Tirunelveli.
- 3.The Commissioner of Police,
Tirunelveli City.
- 4.The Regional Probation Officer,
Tirunelveli.



5.The Superintendent of Central Prison,
Madurai.

6. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

WEB COPY

W.P (MD) No.10391 of 2021
30.11.2021

ARK (CO)

KB (09.12.2021) 4P 7C