



WEB COPY

W.P(MD)NO.10261 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)NO.10261 of 2021

N.Saraswathi

:Petitioner

.vs.

1.The State of Tamil Nadu,
represented 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 Police/
The Inspector General of Prisons,
C.M.D.A.Towers,II,
No.1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

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

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of directing the respondents to consider ''premature release'' for the Petitioner's husband namely, Sathiya @ Sathyan, aged about 43 years, now confined at Central Prison, Madurai as Life Convict No.5891 in terms of G.O (Ms)No.64, Home(Prison-IV)Department, dated 01.12.2018 and set him at liberty forthwith by extending the benefit to the Petitioner's husband as per the clarification letter/Memo No.1418/W.1/1989, issued by the Inspector/Director General of Prisons, dated 4.11.1989 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 8.5.2021 within the period stipulated by this Court.

For Petitioner : Ms.Yasmin Begum

For Respondents : Mr.S.Ravi
Standing Counsel for the State



O R D E R

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

Heard Ms.P.Yasmin Begum, learned counsel appearing for the Petitioner and Mr.S.Ravi, learned Standing Counsel for the State appearing for the respondents and perused the materials placed before this Court.

2.The prayer in the Writ Petition is to consider ''premature release'' for the Petitioner's husband namely, Sathiya @ Sathyan, aged about 43 years, now confined at Central Prison, Madurai as Life Convict No.5891 in terms of G.O(Ms)No.64, Home(Prison-IV)Department, dated 01.12.2018 and set him at liberty forthwith by extending the benefit to the Petitioner's husband as per the clarification letter/Memo No.1418/W.1/1989, issued by the Inspector/Director General of Prisons, dated 4.11.1989 and in 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 8.5.2021.

3.The Petitioner would state that her husband was implicated as one of the accused in Crime No.308 of 1997, for the offence under Sections 449, 394 r/w 397, 302 r/w 34 of IPC along with two others. The learned Additional District Judge, Fast Track Court No.I, Chengalpattu in S.C.No.161 of 1998 found him guilty and sentenced him to undergo 10 years rigorous imprisonment with a fine of Rs.1,000/- for the offence under Section 449 IPC, 10 years rigorous imprisonment with a fine of Rs.1,000/- for the offence under Section 394 r/w 397 IPC and life imprisonment with a fine of Rs.2,000/- for the offence under Section 302 r/w 34 IPC by order, dated 5.2.2003 and ordered the sentence to run concurrently. The Petitioner would further state that the appeal preferred before the High Court in C.A.No.466 of 2003 was dismissed and the judgment of the Trial Court was confirmed.

4.The learned counsel for the Petitioner would state that the Life Convict Sathya @ Sathyan has been in judicial custody since 5.2.2003. The principles laid down by the Honourable Apex Court in the case of ***The State of Tamil Nadu and others .vs. P.Veera Bhaarathi, made in Criminal Appeal No.120 of 2019*** is squarely applicable to the case of the Petitioner and he is entitled for premature release. She further added that it would suffice to direct the respondent to pass orders on the representation of the Petitioner.

5.The learned Standing Counsel for the State appearing for the respondents would submit that the representation of the Petitioner is pending and they are ready to consider the same in accordance with law.



6.In the light of the submissions made by the learned counsel appearing on either side, this Court, without expressing any opinion of the merits of the matter, directs the first respondent to pass orders on the representation of the Petitioner, dated 8.5.2021 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 and communicate the same to the Petitioner.

7.With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home(Prison) Department,
Tamil Nadu Government Chief Secretariat,
Fort St.George,
Chennai - 600 009.
- 2.The Additional Director General of Police/
The Inspector General of Prisons,
C.M.D.A.Towers,II,
No.1, Gandhi Irwin Road,
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-21120[F] dated 05/07/2021)

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