



Crl.O.P.No.22475 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM:

**THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA
KURUP**

Crl.O.P.No.22475 of 2021

E.Peter

... Petitioner

Versus

1.The Superintendent
Central Prison
Puzhal II
Chennai.

2.The Superintendent
Central Prison
Palayamkottai.

3.The Inspector of Police
P-2, Egmore Police Station
Chennai.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first and second Respondents to set off the imprisonment pre-trial period in Crime No.458 of 2010 on the file



CrI.O.P.No.22475 of 2021

of the third Respondent Police from 09.06.2010 to 27.11.2010 undergone by the Petitioner in S.C.No.509 of 2010 order dated 03.12.2011 on the file of the Learned VI Additional Sessions Judge, Chennai.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.L.Baskaran
Government Advocate (CrI.Side)

ORDER

This petition has been filed to direct the first and second Respondents to set off the imprisonment pre-trial period in Crime No.458 of 2010 on the file of the third Respondent Police from 09.06.2010 to 27.11.2010 undergone by the Petitioner in S.C.No.509 of 2010, order dated 03.12.2011 on the file of the Learned VI Additional Sessions Judge, Chennai.



Crl.O.P.No.22475 of 2021

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2. The Petitioner had filed this petition seeking to set off the period of remand to be counted along with period of imprisonment / period of sentence of conviction, enabling him for pre-mature release as per **G.O.(MS).No.488, Home (Prison-4) Department, dated 15.11.2021.**

3. The Learned Government Advocate (Crl.Side) seeks time to file counter.

4. The typed set of papers of the Petitioner contains the order passed by the Learned Sessions Judge, in which, it had been stated that the period already undergone on remand has not been taken into consideration while passing the sentence of imprisonment. Also, the Petitioner had filed a reply obtained by him from the Prison Authority, Palayamkottai under Right to Information Act, therein also the date is mentioned as period of remand before proceeding trial. Therefore, as prayed by the Petitioner, the Petitioner is entitled to set off the earlier



CrI.O.P.No.22475 of 2021

period undergone in remand as per Section 428 of Cr.P.C, which is extracted hereunder:-

“428. Period of detention undergone by the Accused to be set off against the sentence of imprisonment:- Where an Accused person has, on conviction, been sentenced to imprisonment for a term, not being imprisonment in default of payment of fine, the period of detention, if any, undergone by him during the investigation, inquiry of trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him.”

5. In the result, this Criminal Original Petition is allowed.

The period of remand already undergone by the Petitioner in the pre-trial period of imprisonment, i.e, from 09.06.2010 to 27.11.2010 in Crime No.458 of 2010 on the file of the third Respondent Police, as per the



CrI.O.P.No.22475 of 2021

WEB COPY

judgment of the Learned Sessions Judge in S.C.No.509 of 2010, dated 03.12.2011 on the file of the VI Additional Sessions Judge, Chennai, is set off under Section 428 Cr.P.C.

15.06.2022

Index: Yes/No
Internet: Yes/No
dna

To

1.The VI Additional Sessions Judge, Chennai.

2.The Superintendent
Central Prison
Puzhal II
Chennai.

3.The Superintendent
Central Prison
Palayamkottai.

4.The Inspector of Police
P-2, Egmore Police Station
Chennai.

5.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.22475 of 2021

SATHI KUMAR SUKUMARA KURUP., J.
dna

Crl.O.P.No.22475 of 2021

15.06.2022