



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.3997 of 2020

WEB COPY

Shayeetha

...Petitioner

-Vs-

The State represented by,

1.The Additional Chief Secretary to Government of Tamil Nadu,
Department of Home (Prison-IV),
Fort. St. George, Chennai-600 009.

2.The Director General of Prison,
Chennai.

3.The Superintendent,
Central Prison, Trichy.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order G.O.(D)No.282 issued by the first respondent dated 14.03.2019 and to quash the same and consecutively direct the respondents to release the detainee, Sajahan, S/o.Saleem, life Convict No.14270, prematurely confined at Central Prison, Trichy as per G.O.(Ms)No.64, dated 01.02.2018.

For Petitioner : Dr.S.Manoharan

For Respondents : Mr.S.Ravi,

Additional Public Prosecutor.

ORDER

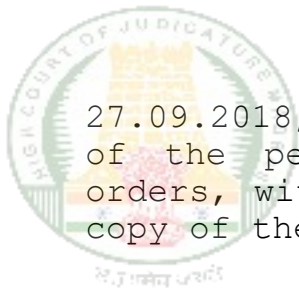
R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The challenge in the Writ Petition is to the order, rejecting the representation of the petitioner, seeking premature release of her son, namely, Sajahan, who is a life convict prisoner.

2.The petitioner seems to have applied for premature release under G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018. Since the petitioner's representation was not considered, the petitioner moved this Court in W.P.(MD)No.3477 of 2018, seeking issuance of Writ of Mandamus, directing the respondents to consider her representation. The said Writ Petition came to be allowed on



27.09.2018, directing the respondents to consider the representation of the petitioner in accordance with law and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of the order.

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3. Thereupon, the first respondent, namely, Additional Chief Secretary to Government of Tamil Nadu has passed an order impugned in this Writ Petition on 14.03.2019, rejecting the request of the writ petitioner on the ground that G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018 is inapplicable to the petitioner's son, since he has been convicted for the offence punishable under Section 498-A of IPC.

4. Mr. S. Manoharan, learned counsel appearing for the petitioner would vehemently contend that premature release of the petitioner should have been considered on the basis of the law that was prevalent on the date of the conviction of the petitioner. It is his contention that even though the application for premature release itself is under G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018, the authorities should have considered it under any other scheme that is in force.

5. He would also attempt to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***Sharafat Ali Vs. State of Uttar Pradesh and another*** in Writ Petition (Criminal) No.439 of 2021, dated 10.02.2022.

6. G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018, excludes its applicability to certain prisoners. One of the exclusions is the prisoner convicted for the following offences namely, Cruelty against women or dowry death (Section 498A and 304 B of IPC). The fact that the son of the petitioner was convicted under Section 498-A of IPC is admitted. Therefore, G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018 is inapplicable. Hence, the respondents are right in rejecting the representation of the petitioner on the ground that G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018 does not enable the premature release of the prisoner, who has been convicted for the offence under Section 498-A of IPC.

7. A perusal of the judgment cited supra would show that the Hon'ble Supreme Court of India had considered general principles, relating to the remission of sentence. Here, premature release is sought for under particular scheme evolved in the State Government under the Government Order. If the scheme does not provide for premature release to certain prisoners, then the request under the



scheme will have to be rejected as rightly done by the Government in the case on hand. Hence, we do not see any merit in the Writ Petition. This Writ Petition, therefore, is dismissed. It is open to the petitioner to seek premature release, if the petitioner feels that her son is entitled to premature release under any other Government schemes, which are in force. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

Myr

To

1.The Additional Chief Secretary to Government of Tamil Nadu,
Department of Home (Prison-IV),
Fort. St. George, Chennai-600 009.

2.The Director General of Prison,
Chennai.

3.The Superintendent,
Central Prison, Trichy.

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

+1 CC to M/s.S.MANOCHARAN, Advocate (SR-13586[F] dated 22/03/2022)

W.P(MD)No.3997 of 2020
21.03.2022

SB(CO)

KB(31.03.2022) 3P 6C