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H.C.P.No.550 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.550 of 2014

and

W.P.No.18138 of 2022

H.C.P.No.550 of 2014

Veerammal

W/o.Samikannu

..

Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Secretary
Department of Home
Fort St.George
Chennai-600 009.

2. The Superintendent of Central Prison
Trichy,
Trichy District.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying
for issuance of a writ of habeas corpus to direct the respondents to produce

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the detenu Panneerselvam, son of Samikannu, aged 52 years, now confined at Central Prison, Trichirapalli and set him at liberty on premature release.

W.P.No.18138 of 2022

Dr.S.Ramalingam
S/o.Samikannu

.. Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Secretary
Department of Home, Prohibition and Excise
Fort St.George
Chennai-600 009.
2. The Additional Director General of Police (Prisons)
Tamil Nadu Prison Department
C.M.D.A. Tower II
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.
3. The District Collector
Collectorate Buildings
Tiruchirappalli.
4. The Commissioner of Police
Office of Commissioner of Police
Subramaniapuram
Tiruchirappalli.
5. The Superintendent
Central Prison
Pudukottai Main Road
Tiruchirapalli.



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6. The Inspector of Police
Edamalaipattipudur Police Station
Tiruchirappalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents herein to release the petitioner's brother namely, Panneerselvam, aged 64 years, son of Samikannu, life convict prisoner No.87296 by considering G.O.(Ms.) No.64, Home (Prison IV) Department dated 01.02.2018 r/w Rules 632 of the Tamil Nadu Prison Rules, 1983 and set him at liberty.

For Petitioner	:	Mr.R.Sankarasubbu in H.C.P.No.550 of 2014 Mr.Godson Swaminathan of M/s.Isaac Chambers (Law Firm) in W.P.No.18138 of 2022
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.M.Sylvester John, Advocate in both HCP No.550 of 2014 and W.P.No.18138 of 2022

COMMON ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This order will now dispose of the captioned 'Habeas Corpus Petition'
['HCP' for the sake of convenience and clarity] and captioned 'Writ Petition'
['WP' for the sake of convenience and clarity].

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2. Suffice to say that the captioned HCP pertains to leave for a life convict prisoner 'Panneerselvam, convict prisoner No.87926, now lodged at Central Prison, Trichirapalli' [hereinafter 'convict prisoner' for the sake of convenience and clarity] and WP pertains to premature release of the convict prisoner. To be noted, WP was originally filed as HCP No.2802 of 2018 in this Court and it was later converted as captioned WP.

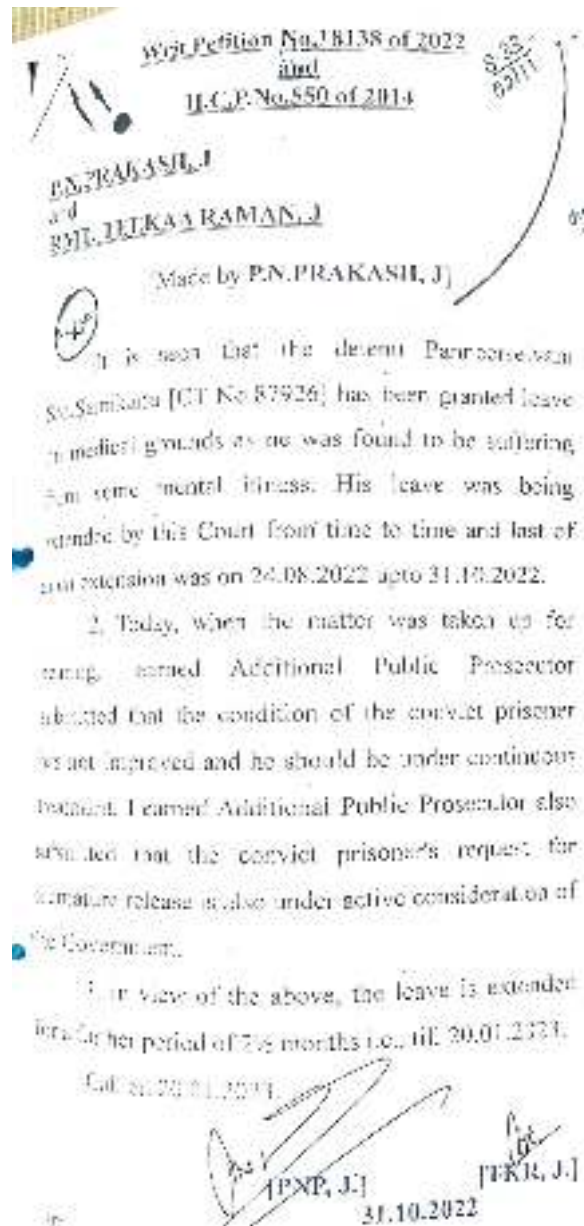
3. Read this in conjunction with and in continuation of earlier proceedings made in the listings on 31.10.2022, 20.01.2023 and 20.03.2023 which read as follows:



H.C.P.No.550 of 2014

Proceedings made in listing on 31.10.2022:

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H.C.P.No.550 of 2014

Proceedings made in listing on 20.01.2023:

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W.P.No.18138 of 2022
in
H.C.P.No.550 of 2014

W.P.No.18138 of 2022

M.SUNDAR, J.,
and
G.K.I.LANTHIRAIYAN, J.,

(Order of the Court was made by M.SUNDAR, J.,)

In the captioned writ petition and habeas corpus petition, Mr.Isaac Mohanlal, learned Senior counsel instructed by Mr.Godson Swaminathan, learned counsel of M/s.Isaac Chambers (Law Firm) and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the State of Tamil Nadu are before us.

2. Subject matter of the captioned matter pertains to premature release of a convict prisoner.

3. This proceedings / orders have to be read in conjunction with and in continuation of earlier orders / proceedings made by Hon'ble predecessor Benches including the order dated 31.10.2022.

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W.P.No.18132 of 2022

4. Today, learned Senior counsel submitted that it would be desirable that the convict prisoner is released, as that would aid the recovery qua his medical condition.

5. Learned Additional Public Prosecutor brings to the notice of this Court the proceedings of Superintendent of Prison, Central Prison, Trichy, being proceedings dated 28.07.2022 wherein the officer has opined that release of the convict prisoner would give a reasonable chance of recovery. A scanned reproduction of the opinion of Superintendent is as follows:

W.P.No.18132 of 2022

I, Prasad, Deputy Superintendent, Madras Prison, have read the report of the Superintendent of Prison, Central Prison, Trichy, dated 28.07.2022, wherein the officer has opined that release of the convict prisoner would give a reasonable chance of recovery. I have read the report and I hereby declare that in my opinion, the release of the convict prisoner would give a reasonable chance of recovery. I have read the report and I hereby declare that in my opinion, the release of the convict prisoner would give a reasonable chance of recovery. I have read the report and I hereby declare that in my opinion, the release of the convict prisoner would give a reasonable chance of recovery.

Signature of Prasad
Deputy Superintendent
Madras Prison

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W.P.No.18138 of 2022

6. Adverting to the above proceedings, learned Additional Public Prosecutor submits that premature release is under active consideration of the State. This submission is recorded.

7. Let a decision be taken for premature release as expeditiously as the official business of the authority would permit, preferably before next listing which shall be two months hence.

8. Till the next listing, leave already granted by Hon'ble predecessor Benches will continue to operate.

9. List on 20.03.2023.

[M.S.J.]

[G.K.I.J.]

20.01.2023

mk

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Proceedings made in listing on 20.03.2023:

M.SUNDAR.J
AND
N. ANAND VENKATESH..J..

(Order of the Court was made by M.SUNDAR.J.,)

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 20.01.2023, which reads as follows:

W. S. HARRIS,
and
W. G. LAMBERTSON,

Order of the Court was made by MSUDAT, J.)

[illegible]

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 Professor Bernard initially, he is about 21.10.2020

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2. Today, Mr.Isaac Mohanlal, learned Senior Counsel instructed by Mr.Godson Swaminathan, learned counsel of M/s.Isaac Chambers (Law Firm) and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the State of Tamil Nadu are before us.

3. Adverting to the earlier proceedings, learned Additional Public Prosecutor submits that some more time is required for taking a decision qua the premature release plea. Learned Prosecutor submits on instructions that medical board reports are being examined.

4. Learned Senior counsel for the petitioner points out that leave granted by Hon'ble Predecessor Benches elapses today. Learned Senior counsel drew our attention to paragraph 8 of the earlier proceedings.

5. In the light of the narrative thus far, considering the fact that learned Prosecutor is seeking time, leave already granted by Hon'ble predecessor Judge will continue to operate till next listing. We make it clear that it may be necessary to treat the next listing as peremptory considering the trajectory the matter has taken thus far.



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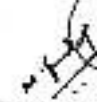
W.P.No.18138 of 2022

6. Adverting to the above proceedings, learned Additional Public Prosecutor submits that premature release is under active consideration of the State. This submission is recorded.

7. Let a decision be taken for premature release as expeditiously as the official business of the authority would permit, preferably before next listing which shall be two months hence.

8. Till the next listing, leave already granted by Hon'ble predecessor Benches will continue to operate.

9. List on 20.03.2023.


[M.S.J.]


[G.K.J.]

20.01.2023

mk



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List four week hence. List on 17.04.2023

[M.S.J.] [N.A.J.]
20.03.2023

4. The above mentioned proceedings capture both crux and gravamen of the matter as well as the trajectory the matter has taken before us.

5. Today, Mr.R.Sankarasubbu, learned counsel on record for petitioner in HCP, Mr.Godson Swaminathan, learned counsel of M/s.Isaac Chambers (Law Firm) for petitioner in WP and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.M.Sylvester John, learned counsel for all respondents in both HCP and WP are before us.

6. Learned counsel on record for petitioner in HCP and WP as well as learned Prosecutor submit in one voice that premature release plea qua



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convict prisoner has since been acceded to by the State vide

G.O.(Ms)No.139 Home (Prison-IV) Department dated 24.03.2023 and a

scanned reproduction of the same (as placed before us) is as follows:



ABSTRACT

Prisons and Correctional Services - Control Prison, Trichy.
Prisoner release of the Life Convict Prisoner No.87926,
Panneerselvam, son of Samikannu Padayachi, confined in
Control Prison, Trichy on Medical grounds. Orders - Issued.

HOME (PRISON-IV) DEPARTMENT

G.O.(Ms)No.139

Dated: 24.03.2023.

விடுதலை செய்தல் பற்றிய செய்தி

தமிழக சிறைகள் துறை

Read:

1. G.O.(Ms) No.54, Home (Prison-IV) Department, dated 01.02.2018 as amended by G.O.(Ms) No.302, Home (Prison-IV) Department, Dated 03.05.2018.
2. Orders of the Hon'ble High Court of Madras, dated 31.01.2019 in HCP No.2862 of 2018.
3. From the Director General of Prisons/Director General of Prisons and Correctional Services letter No.2273/P51/2018, dated 14.11.2019, 04.12.2020, 03.03.2021 and 09.09.2022.

ORDER:

The Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi was concerned in Mayiladuthurai Police Station Crime No.1652 of 1990 and was convicted and sentenced to imprisonment for life u/s 302 IPC on the file of the Sessions Judge, Nagapattinam in SC No.118 of 1991 on 30.11.1992. On appeal, the Hon'ble High Court of Madras has confirmed the conviction and sentence awarded by the trial court in Criminal Appeal No.745 of 1992, dated 05.10.2009. Further, the Special Leave Petition preferred in CRL.MP.No.7550 of 2010 by the convict before the Honourable Supreme Court of India was also dismissed on 26.04.2010.

2. The above Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi is suffering from chronic schizophrenia and he is in continuous treatment in a private hospital as an in-patient and in continuous leave for the medical treatment from 15.03.2014 based on the order of Hon'ble High Court in HCP No.430 of 2014, dated 06.08.2014 and it is extended through various orders from time to time by the Hon'ble Court, Chennai. The life Convict has completed 07 years, 01 month and 19 days of



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actual imprisonment as on 06.03.2019. The petitioner Thiru.S.Sankar Raj, brother of Life Convict Prisoner No.87926, Pannerselvam, son of Samikannu Padayachi has filed a HCP No.2802 of 2018 before the Hon'ble High Court of Madras with a prayer to release his brother prematurely on medical grounds.

3. The Hon'ble High Court of Madras, in its order second read above, had directed as follows:-

"3. A perusal of G.O (Ms) No.64 reveals that the situations wherein a prisoner may be released in keeping with Rule 532 of Tamil Nadu Prison Manual is also covered thereby.

4. In the circumstances, there shall be a direction to the respondents to consider the release of the petitioner's brother under G.O.(Ms.) No.64, Home (Prison IV) Department dated 01.02.2018, within a period of two weeks from the date of receipt of a copy of this order."

4. The Director General of Police / Director General of Prisons and Correctional Services in his letter third read above, has stated that,

a) The Medical Board, M.G.M. Government Hospital, Trichy in their report dated 19.07.2021 has certified as follows:-

"We certify that the convict prisoner No.87926, Mr.Pannerselvam, Son of Samikannu Padayachi is in our opinion dangerously ill, due to his Major Mental illness Chronic Schizophrenia. He is also suffering from Liver Disease & Diabetes Mellitus, which requires special care to save his life. We sincerely declare that, in our opinion, he needs long term medical & psychiatric treatment".

The Medical Board of Mahatma Gandhi Memorial Government Hospital, Tiruchirappalli consisting of a Chairman and two members on 27.05.2022 has opined as follows:-

"Certify that Mr.S.Pannerselvam, 52/M, son of Samikannu Padayachi was evaluated by dept of psychiatry with history. Previous treatment particulars and evaluation he is found to have Chronic Schizophrenia patient has reduced communication, reduced activity, blunted affect, suspicious ideas and hearing voices. Asking him to cannot suicide by hanging.



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He is not in a position to take care of himself and needs continuous treatment, care and supervision from others."

- b) The District Collector, Trichy has recommended his case, specifically stating that if the prisoner is released prematurely, no problem will arise to the victims.
- c) The Director General of Police / Director General of Prisons and Correctional Services has sent the connected documents of the Life Convict Prisoner No.87926, Panneerselvam, son of Swamikannu Padayachi and requested the Government to pass orders early in this matter.
- d) The Superintendent of Prison, Central Prison, Trichy has issued a certificate that, if the Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi, confined in Central Prison, Trichy released on medical ground will be suitably cared for by his brothers or relatives as per rule 632 of Tamil Nadu Prisons Rules, 1983 and also certified as follows:-

"The above prisoner's illness has not been caused or aggravated by any acts committed by him in order to procure release and I sincerely declare that in my opinion he will have a reasonable chance of recovery if he is released. He can be suitably cared by his own brother and his wife as per the statement given by Probation Officer, Division-I, Trichy."

- e) The Probation Officer has recommended his release on Medical grounds since he is suffering from chronic schizophrenia.

5. In pursuance of the orders of the Hon'ble High Court of Madras dated 31.01.2019 in HCP No.2802 of 2018, the Government have examined the proposal of the Director General of Police/ Director General of Prisons and Correctional Services for premature release of the Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi on medical grounds and have decided to release the Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi, confined in Central Prison, Trichy prematurely on medical grounds as per para 5 (IV) of G.O. (Ms) No.64, Home (Prison-IV) Department, dated 01.02.2018 by invoking the power conferred under Article 161 of the Constitution of India.



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8. Now, therefore, in exercise of the powers conferred under Article 161 of the Constitution of India, the Governor of Tamil Nadu hereby remits the unexpired portion of sentence of imprisonment for life imposed on the Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi, confined in Central Prison, Trichy. Accordingly, the Government direct that the Life Convict Prisoner No.87926, Panneerselvam, son of Samikannu Padayachi be released prematurely on medical grounds, subject to the condition that he will execute the bond as per usual terms and conditions including any other necessary formalities unless his presence is required in any other case.

(BY ORDER OF THE GOVERNOR)

K.PHANINDRA REDDY

ADDITIONAL CHIEF SECRETARY TO GOVERNMENT

✓ To
The Director General of Police/
Director General of Prisons and Correctional Services, Chennai-8.
The Superintendent of Central Prison, Trichy.
The District Collector, Trichy.
The Registrar General, High Court of Madras, Chennai-104.
The Director General of Police/
Head of Police Force, Chennai-4.
Copy to
The Office of the Chief Minister, Chennai-9.
The Special Personal Assistant to Minister for Law, Chennai-9.
The Private Secretary to Additional Chief Secretary to Government,
Home, P&E Department, Chennai-9.
Stock File / Spare Copy.

// FORWARDED BY ORDER //

SECTION OFFICER



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7. Both sides further go on to submit that the above gives quietus to

the matter and curtains can be dropped on both the captioned matters.

Recording the aforesaid stated position of the parties and obtaining position

as of today, captioned HCP and captioned WP are disposed of as closed.

Consequently, connected miscellaneous petitions are closed, if any. There

shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

17.04.2023

Index : Yes

Speaking

Neutral Citation : Yes

mk



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To

1. The State of Tamil Nadu
Represented by its Secretary
Department of Home
Fort St.George
Chennai-600 009.
2. The Superintendent of Central Prison
Trichy,
Trichy District.
3. The State of Tamil Nadu
Represented by its Secretary
Department of Home, Prohibition and Excise
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8. The Inspector of Police
Edamalaipattipudur Police Station
Tiruchirappalli.
9. The Public Prosecutor
High Court, Madras.



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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

H.C.P.No.550 of 2014
and
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17.04.2023

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