



**WP(MD)No.25073 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 17.10.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.SUNDAR**

**and**

**THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

**W.P.(MD)No.25073 of 2023**

Asharaf

: Petitioner

**Vs.**

1.The State of Tamil Nadu,  
Rep. by The Principal Secretary to Government,  
Home Prohibition & Excise Department,  
Fort St. George, Secretariat,  
Chennai – 600 009.

2.The Director General of Police / Director of  
Prisons and Correctional Services,  
C.M.D.A. Towers II,  
No.1, Gandhi Irvin Road,  
Egmore, Chennai.

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

: Respondents



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**PRAAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to release the petitioner by name Asharaf, son of Abdul Majeed, aged about 56 years, now confining at Madurai Central Prison under premature release on the basis of the G.O.(MS)No.1762 dated 20.07.1987 issued by the respondent No.1 on humanitarian grounds on completion of 20 years actual imprisonment and G.O.Ms.488, Home (Pri IV) Department, dated 15.11.2021 or under advisory board proceedings under Rule 341 of the Tamil Nadu Prison Rules.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar,  
Addl. Public Prosecutor.

### **ORDER**

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

Captioned Writ Petition pertains to a premature release plea.

2. The prison inmate [convict prisoner, whom we shall be referring to as prison inmate] himself is the writ petitioner before us.



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3. Mr.R.Alagumani, learned counsel for Writ Petitioner submits that a detailed representation dated 29.07.2023 has been sent to all the three respondents. To be noted, this 29.07.2023 representation together with postal receipts evidencing despatch are as follows:

From:-  
Ashraf, (M, 57/23),  
S/o. Abdul Majeed,  
Kanjankattu Thodiyil House,  
A.V.R.Nagar, Valathangal Post,  
Eravipuram Junction,  
Kollam district, Kerala State,  
(Now Confining as Convict prisoner in Madurai Central Prison)

To:-  
1. The Principal Secretary to Government,  
Home Prohibition & Excise Department,  
Fort, St.Geroge, Secretariat,  
Chennai - 9.  
2. The Director General of Police/ Director of Prisons and Correctional  
Services,  
C.M.D.A. Towers II,  
No.1, Gandhi Irvin road,  
Egmore, Chennai-8.  
3. The Superintendent of Prison,  
Madurai Central Prison,  
Madurai District.

Respected Sir/Madam,

I am residing in above mentioned address and now I am confining as life convict in Madurai Central Prison. In the year 1996 the Villupuram Police Station officials registered FIR in crime no.792 of 1996 under section 307 of Indian Penal. That the case of the prosecution was that on 19.08.1996 at about 03.00 PM I allegedly entered into the deceased house and took grinding stone and allegedly threw it on the deceased's head and I allegedly removed jewels and came out of the house. Thereafter the deceased was taken to the hospital by one Gopalakrishnan



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and the Villupuram Police Station officials registered FIR in crime no.792 of 1996 under section 307 of the Indian Penal Code and on next day the deceased was died in the hospital, therefore section 307 of Indian Penal Code was altered into 302 of Indian Penal Code in this case.

On 04.11.1998 the Hon'ble Additional Sessions Court, Villupuram convicted me under section 449, 302 and 394 r/w 397 of Indian Penal Code and sentenced me to undergo life imprisonment under section 302 of Indian Penal Code and to undergo seven year rigorous imprisonment under section 394 r/w 397 of Indian Penal Code and to undergo seven years rigorous imprisonment under Section 449 of Indian Penal Code and the sentences shall run consecutively. That apart from the said case, several other cases was registered against me during that time. I filed Criminal Appeal in Cr.L.A.(MD)No. 1088 of 1998 and on 20.11.2002 this Hon'ble Court was confirmed the trial court judgment.

That government issued Letter (MS) No.1358 dated 10.11.1994 to the Superintendent of Prison, Madurai and all superintendents of central prisons and mentioned in the said letter that " I am directed to state that the Government have decided that Convicts coming under the purview of the orders issued in G.O.Ms.No.1762, Home, dated 20.7.87, which is based on the recommendation of the All India Committee on prison Reforms will be considered by the Government under Article 161 of the Constitution of India for grant of premature release, on completion of twenty years of actual imprisonment, on humanitarian grounds. Necessary proposals in respect of such convicts for consideration under Article 161 of the Constitution of India may be sent to Government at appropriate time".

That the general amnesty and premature release in MGR Centenary Birth Anniversary and gave press release, it is disclose that the state of TamilNadu issued G.O.(MS) 64 dated 01.02.2018 and decided to release the life convicts who have completed 10 years imprisonment in prison on 18.01.2018.



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Now I have been confining at Madurai Central Prison from the date of the trial court judgement (04.11.1998) for more than 25 years. I state that I approached the Madurai Central Prison authorities and requested to include my name in the list of eligible premature release prisoners, and I also submitted oral representation before the prison officials.

I have sent a representation to the higher officials to consider my premature release under G.O.Ms.No.64, home (Prison IV) Department Dated 02.02.2018.

That through the G.O.Ms.No.64, home (Prison IV) Department Dated 02.02.2018, The government has suo-motu taken a policy decision and thereby premature released more than 1000 life convicts who had served 10 years of imprisonment as on 25.02.2018.

That the government issued G.O.(MS).No. 488 dated 15.11.2021 and decided to release the life convicts who have completed 10 years imprisonment in prison on 15.09.2021 I received jail custodial certificate and they clearly mentioned the period of conviction undergone till date as " 25 years 07 months 28 days". Therefore I am eligible for premature release.

As per the above said Government order the prisoners convicted under the Darnaburi Bus attack case were released, but I was considered during that time, now the TamilNadu government is considering the premature release of life convicts, that I have been completed more than 25 years of imprisonment, now I eligible to be considered for premature release under the said Government order.

I am maintaining good conduct during entire period of his incarceration, now I changed my entire attitude in good manner, I lost my degree of criminality, my health condition has become very worst during the period of my incarceration,



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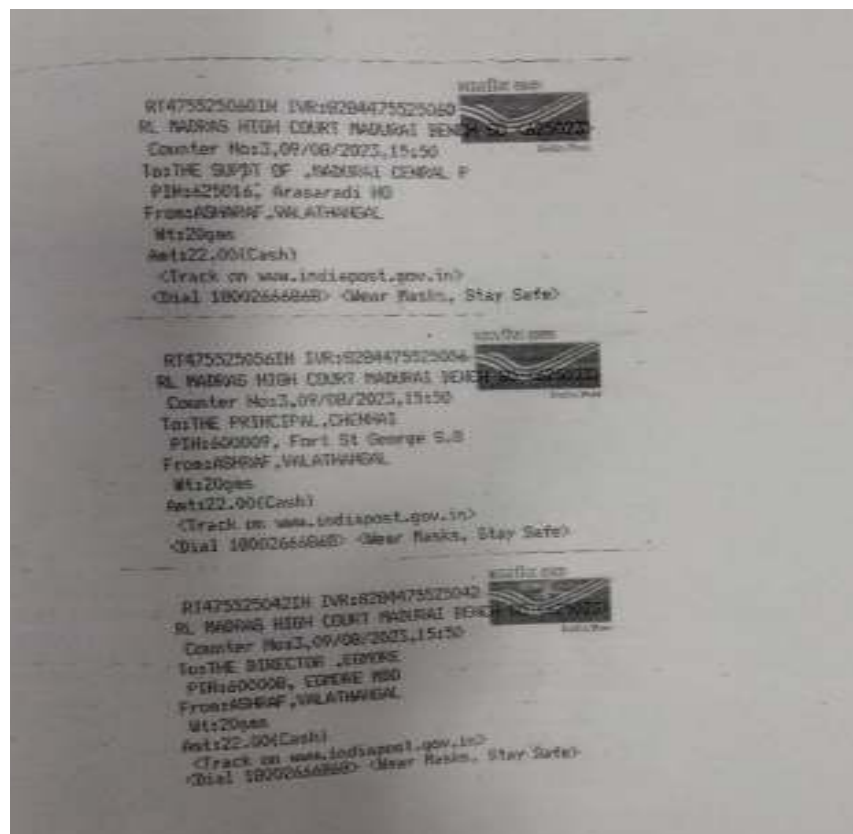
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I am taking treatment in prison hospital, my family members are ready to take my care and they are ready to take care my re-settlement after my premature release. I did not maintain any animosity with any person and I wish to spend my rest of life in peaceful manner along with my family members.

Therefore I request your good self to release me under the premature release on the basis of G.O.(MS).No.488 dated 15.11.2021 or advisory board proceedings under Rule 341 of the TamilNadu Prison Rules 1993 or any other Schemes or Government Orders. But my request did not consider by respondent in positive manner.

Dated :29.07.2023

Your's Truly





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**4. Issue notice.**

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**5. Mr.A.Thiruvadikumar, learned State Additional Public Prosecutor** accepts notice for all three respondents.

**6. From the postal receipts, we find that the aforementioned representation though dated 29.07.2023 has been despatched only on 09.08.2023 but learned State Public Prosecutor, on instructions, submits that the same has been received by the respondents.**

**7. Learned State Public Prosecutor also submits, on instructions, that the representation is being processed. Let the same proceed. Considering the facts and circumstances i.e., *inter alia* the fact that the conviction itself is of the year 1998, we direct the first respondent to decide on the aforementioned representation as expeditiously as possible but in any event within eight weeks from today i.e., by 12.12.2023. Though obvious this Bench makes it clear that the respondents and more particularly the first respondent shall decide on the premature release plea on its own merits and in accordance with law. The decision taken by the first respondent shall be**



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communicated to the Writ Petitioner under due acknowledgement within three days from the date of decision.

**8.** Captioned Writ Petition is disposed of in the aforesaid manner. If the disposal is not in favour of the Writ Petitioner and if the Writ Petitioner has to challenge the same we make it clear that all the rights and contention of the Writ Petitioner including the points urged in the captioned Writ Petition are preserved for such an exercise. There shall be no order as to costs.

**[M.S.,J.] & [R.S.V.,J.]**

**17.10.2023**

Neutral Citation : Yes/No  
Index : Yes/No  
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State of Tamil Nadu,  
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**and**

**R.SAKTHIVEL, J.**

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