



W.P(MD)No.23255 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

W.P(MD)No.23255 of 2022

Kasiammal

... Petitioner

.Vs.

1.The State of Tamil Nadu,
represented by
The Principal Secretary,
Home, Prohibition and Excise Department,
State Secretariat, Fort St. George,
Chennai-600 009.

2.The Additional Director General of Police/
Inspector General of Prisons,
Egmore,
Chennai-600 008.

3.The Superintendent,
Central Prison,
Madurai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to release the petitioner's son by name Jeyakumar, S/o.Duraipandi, aged about 46 years, now confining at Madurai Central Prison under the premature release on the basis of G.O(Ms) 64, dated 01.02.2018 or advisory board proceedings under rule 341 of the Tamil Nadu Prison Rules 1993 or any other Schemes or Government Orders in accordance with law within the time stipulated by this Court.

For petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The writ petition is filed by the mother of the convict, namely, Jeyakumar, convict No.4013, for premature release pursuant to G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018.

2. The request was made on the premise that the co-accused in this case was released prematurely by exercising the power under G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018.



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3. In the counter filed by the State it is stated that the son of the petitioner was convicted for the offence under Sections 397 and 398 of IPC which is excluded from the purview of G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018. Further, the convict has not completed 20 years of imprisonment to avail the concession extended under G.O.(Ms)No.64, Home (Prison-IV) Department, dated 01.02.2018.

4. In response, the learned counsel for the petitioner submitted that the conviction certificate issued by the prison authority on 26.05.2022 shows that the convict has already completed 20 years, 2 months and 15 days of imprisonment. This fact is disputed by the State on the ground that the calculation has not excluded the period of leave granted to the convict. Further more, in appropriate cases the authorities have exercised their jurisdiction to grant premature release even in case of conviction for offence under Section 397 and 398 of IPC, but no convict can claim as a matter of right for premature release.

5. Considering the rival submissions, this Court finds that if the convict has already completed 20 years of sentence on the basis of parity, the concession



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extended to the co-accused has to be extended to the petitioner, if he is otherwise eligible for premature release. Hence, the respondents are directed to reconsider the request of the petitioner for premature release and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ petition stands disposed of. No costs.

[G.J.,J.] [S.M.,J.]
03.01.2023

Index : Yes / No
Internet : Yes / No
am

To

- 1.The Principal Secretary,
Home, Prohibition and Excise Department,
State Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Additional Director General of Police/
Inspector General of Prisons,
Egmore, Chennai-600 008.
- 3.The Superintendent,
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