



W.P.(MD)No.30327 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.30327 of 2023

Subitha

: Petitioner

Vs.

1.The State of Tamil Nadu,

The Principal Secretary,

Home (Prison) Department,

State of Tamil Nadu,

Secretariat, Fort St. George,

Chennai – 600 009.

2.The Director General of Police /

Director General of Prisons and Correctional Services,

C.M.D.A. Towers II,

No.1, Gandhi Irvin Road,

Egmore, Chennai – 600 008.

3.The Deputy Inspector General of Prisons,

Madurai Range,

Madurai Central Prison,

Madurai – 625 016.



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4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to release the petitioner's husband namely Antony S/o.Sebastian, Male aged about 45 years [CP No.892], now confining at Central Prison, Palayamkottai under premature release on the basis of G.O. (Ms)No.64 Home (Pri IV) Department dated 01.02.2018 or G.O. (Ms)No.488 Home (Pri IV) Department dated 15.11.2021 or under Advisory Board proceedings under Rule 341 of the Tamil Nadu Prison Rules or any other appropriate order or Government Scheme by considering the petitioner's representation dated 13.12.2023 in accordance with law within the time stipulated by this Court.

For Petitioner : Ms.A.Banumathy

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor



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ORDER

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

Captioned 'Writ Petition' [hereinafter 'WP' for the sake of brevity] has been filed in this Court on 15.12.2023 and it pertains to pre-mature release of WP petitioner's spouse one Antony son of Sebastian, aged 45 years who is a convict prisoner [CP No.892] now lodged in Central Prison, Palayamkottai. WP petitioner's spouse 'Thiru.Antony, son of Sebastian' shall hereinafter be referred to as 'said prison inmate' for the sake of convenience and with the intention of using better / refined glossary.

2.Ms.A.Banumathy, learned Counsel on record for WP petitioner submitted that pre-mature release plea *qua* said prison inmate is predicated on a 'representation dated 13.12.2023' [hereinafter 'said representation' for the sake of convenience and clarity]. We deem it appropriate to set out a scanned reproduction of said representation which is placed before us and the same is as follows:



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From:

Subitha (FM/38/2023)
W/o, Antony ,
No. 65/L, George Road,
Mathakovil Street,
Thoothukudi District.

To:

1. State of Tamil Nadu, represented by,
The Principal Secretary,
Home (Prison) Department,
State of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Director General of Police/Director General of Prisons and
Correctional Services,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Egmore, Chennai-600 008.
3. The Deputy Inspector General of Prisons,
Madurai Range,
Madurai Central Prison,
Madurai-625 016.
4. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

Respected Sir/Madam,

That, I am residing in the above mentioned address. My husband was confining as life convict prisoner in Palayamkottai Central Prison as life convict No. 892.



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That the Thoonthukudi South Police officials registered FIR against my husband. That on 02.12.2008, the Hon'ble Additional District and Sessions Judge, Thoonthukudi convicted me in S.C.No. 87 of 2007 and following sentence was imposed against my husband,

Sections	Punishment	Fine	Default
U/s.302 of IPC	Life imprisonment	-	-

That thereafter my husband filed Criminal Appeal before the Hon'ble Madras Court in CrI.A.No. 94 of 2010 challenging the order passed by the Hon'ble Additional District and Sessions Judge, Thoonthukudi in S.C.No. S.C.No. 87 of 2007 and the same was dismissed on 29.07.2010. Thereafter, my husband filed Special leave petition before the Hon'ble Supreme Court of India in SLP No. 8518 of 2018 and same was dismissed on 14.09.2018. Now I had undergone the sentence for more than 15 years in connection with the above said case.

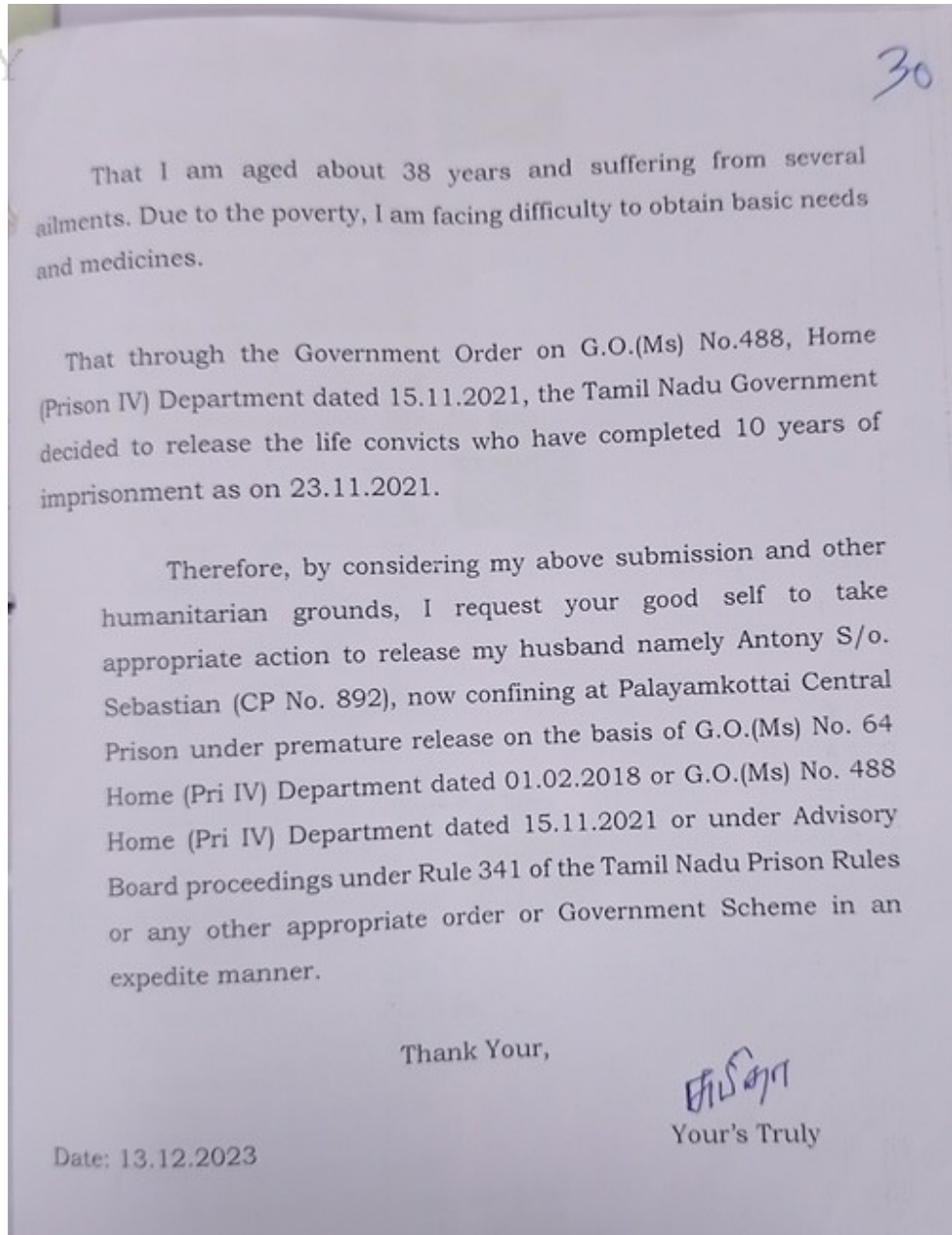
That through the Government Order on G.O.(Ms) No.64, Home (Prison IV) Department dated 02.02.2018, the Tamil Nadu Government has suo-motu taken a policy decision and thereby prematurely released more than 1000 life convicts who served 10 years of imprisonment as on 25.02.2018.

That my husband was entitled to place before the Advisory Board immediately after the completion of 10 years imprisonment. But till now, the Advisory Board is not constituted and failed to place my husband case for the consideration of premature release.



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3.Issue notice.

4.Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepted notice for all four respondents.



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5.Learned Prosecutor submitted on instructions that the case of said prison inmate is being considered both under G.O. (Ms)No.488 of 2021 dated 15.11.2021 and now vide Rule 341 of 'The Tamil Nadu Prison Rules, 1983' [hereinafter 'said Rule' for the sake of convenience] which is referred to as Advisory Board Scheme as the said prison inmate has since completed 15 years of sentence.

6.Learned Prosecutor submits that twelve weeks from today would be a reasonable time frame to continue and conclude the pre-mature release consideration either under G.O.(Ms)No.488 of 2021 dated 15.11.2021 or under the Advisory Board Scheme. To be noted, twelve [12] weeks from today lapses on **13.03.2024**.

7.In the light of the aforementioned narrative, we dispose of the captioned WP with a simple directive to first respondent to consider aforesaid representation and take a decision either vide G.O.Ms.488 of 2021 dated 15.11.2021 or under the Advisory Board Scheme vide Rule 341 of said Rules as expeditiously as the business of first respondent would permit but in any event in twelve [12] weeks from today ie., by **13.03.2024**. The decision



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taken shall be communicated to the writ petitioner as well as the prison inmate within five working days from the date of the decision.

8.Captioned WP is disposed of, with the aforementioned simple directive and we deem it appropriate to add that we have not expressed any opinion on the merits of the matter. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
20.12.2023

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR

Post Script: (i) Though disposed of, post 'FOR REPORT' on 15.03.2024.

(ii) Upload forthwith.

(iii) All concerned are to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



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To

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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

MR

ORDER MADE IN
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20.12.2023