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W.P.No.8773 of 2024

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                      |            |
|----------------------|------------|
| <b>Reserved on</b>   | 26.06.2024 |
| <b>Pronounced on</b> | 28.06.2024 |

CORAM :

**THE HONOURABLE MR. JUSTICE M.S. RAMESH**  
**AND**  
**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

W.P.No.8773 of 2024

Venu Sankar

...Petitioner

Vs.

1.Union Territory of Puducherry,  
Rep. by its Chief Secretary,  
Puducherry.

2.Union Territory of Puducherry,  
Rep. by its Home Secretary,  
Puducherry.

3.The Inspector General of Prison,  
Puducherry.

4.The Chief Superintendent of Jails,  
Puducherry.

5.The Superintendent,  
Central Prison,  
Kalapet, Puducherry.

...Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order No.1069/JD/SJ/PMR/2023-2024 dated 19.01.2024 passed by the 4<sup>th</sup> respondent, quash the same and direct the respondents to release the life convict prisoner Prem Kumar, S/o.Subramani, (M/43) (Prisoner No.1069) lodged at 5<sup>th</sup> respondent prison, who is undergoing life imprisonment for the past 21 years.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.K.S.Mohandas  
Public Prosecutor (Pondicherry)

### **ORDER**

**M.S.RAMESH,J.**

Heard Mr.V.Elangovan, learned counsel for the petitioner and Mr.K.S.Mohandas, learned Public Prosecutor, for the respondents.

2. The petitioner's father, namely Pream @ Preamkumar, was convicted for the offence under Section 302 read with Section 34 of the Indian Penal Code (IPC), through a judgment dated 30.04.2003 passed in S.C.No.15/2003 on the file of the II<sup>nd</sup> Additional Sessions Judge, Puducherry and sentenced to undergo life imprisonment. The appeal filed against the



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said judgment before this Court in Crl.A.No.1124 of 2003 was dismissed on 05.07.2006. Since then, the life convict prisoner has been in custody for the past more than 20 years at the Kalapet Central Prison, Puducherry.

3. As per the Puducherry Prison Rules, 2021 (hereinafter referred to as 'the Rules'), the life convict prisoners, who have completed 14 years of imprisonment, would be eligible for consideration of premature release. In this connection, when the life convict had made an application seeking for premature release, his request was rejected by invoking Rule 870 of the Rules, through the impugned order dated 19.01.2024, predominantly on the ground that the prisoner was involved in 11 other cases, which are pending trial and if he is prematurely released, he may tamper with the witnesses. It is also stated that there is a strong enmity from his rival group, who may settle their scores if he is released from jail, thereby affecting public peace and tranquility. Challenging the said order, the present Writ Petition has been filed.

4. The learned counsel for the petitioner submitted that in almost all



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the 11 cases, the prisoner was acquitted from the criminal charges, except in two cases, where he was imposed with minor punishments of imposition of fines of Rs.50/- each, apart from only one case where he was convicted and sentenced to undergo life imprisonment. It is in connection with this case that he had completed 14 years of imprisonment and hence, seeks for premature release. He further submitted that during the prisoner's period of imprisonment, he had been maintaining very good conduct and has also completed his B.A., degree, apart from various skill training programs and sports activities, for which he had earned several laurels.

5. Per contra, the learned Public Prosecutor produced a copy of the list of 11 cases in which the life convict was implicated after his conviction and reiterated the reasoning adopted by the 4<sup>th</sup> respondent in the impugned rejection order. According to the learned Public Prosecutor, the Sentence Review Board had examined the case of the life convict prisoner and after taking into account of his involvement in several criminal cases, has decided not to recommend for premature release. He also submitted that there could be danger to the life of the prisoner from his rival group, if he is released



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from jail.

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6. We have given careful consideration to the submissions made by the respective counsels.

7. There seems to be a factual mistake with regard to the reasoning adopted in the impugned order by the 4<sup>th</sup> respondent, as well as in the counter affidavit filed by them. We had directed the Public Prosecutor to produce the details of the 11 pending cases against the prisoner, which are claimed to have been committed by him while he was in prison. Accordingly, the list produced by them was perused. The following are the details of the cases in which the life convict was implicated:-

| <b>S.No</b> | <b>Crime No.</b> | <b>Offence (u/s)</b>                     | <b>Conclusion of the case<br/>(Acquitted/Convicted/Pending trial)</b>                                                                                                                             |
|-------------|------------------|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1           | 126/199          | 379 IPC r/w 34 IPC                       | The case ended in acquittal on 02.05.2000 before the CJM, Puducherry, vide CC.No.172/1999.                                                                                                        |
| 2           | 35/2001          | 34(b)(i) of PP Act                       | The case was pending trial before the CJM Court, Puducherry, vide STC.No.808/2001. During the time of trial on 21.12.2001, the accused persons were absent and the Court issued NBW against them. |
| 3           | 136/2001         | 147, 148, 341, 302, 506 (ii) r/w 149 IPC | The case ended in conviction and sentenced the accused A1 Murugan @ Sottai Murugan, A2 Ravi @ Pokkaravi, A3 Prem @                                                                                |



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| S.No | Crime No. | Offence (u/s)                                 | Conclusion of the case<br>(Acquitted/Convicted/Pending trial)                                                                                                                                          |
|------|-----------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |           |                                               | Premkumar to undergo life imprisonment and other accused persons A5 to A12 were acquitted from the offence on 30.04.2003, vide SC.No.15/2003 by the II Additional Sessions Judge, Puducherry.          |
| 4    | 75/2002   | 27 of Arms Act r/w 34 IPC                     | The case ended in acquittal on 18.05.2005, vide CC.No.218/2002 by the JM-I Court, Puducherry.                                                                                                          |
| 5    | 72/2013   | 448, 188, 336 r/w 34 IPC & 42 of Prisoner Act | The case was closed u/s 468 Cr.P.C. on 30.01.2018.                                                                                                                                                     |
| 6    | 210/2012  | 384, 109 IPC                                  | The case was charge sheeted on 21.12.2013 vide No.91/2013 and which is pending trial before JM-II Court, vide CC.No.31/2017.                                                                           |
| 7    | 120/2019  | 387, 507 IPC r/w 34 IPC                       | Accused A1 & A2 were residing at France. Hence, they were split up from this case, vide CC.No.92/2424 and A3 to A8 were acquitted, vide CC.No.368/2023 dt. 15.03.2023 by the JM-III Court, Puducherry. |
| 8    | 162/2020  | 42 of Prisoner Act                            | The case was quashed on 28.08.2002, vide CrI.O.P.No.16759/2022 before the High Court, Madras.                                                                                                          |
| 9    | 361/2002  | 323, 324, 506(ii) IPC r/w 34 IPC              | The case ended in acquittal on 05.07.2004, vide CC.No.246/2003 by the CJM Court, Puducherry.                                                                                                           |
| 10   | 03/2005   | 309 IPC r/w 34 IPC                            | The case ended in acquittal on 23.09.2005, vide STC No.77/2005 by the CJM Court, Puducherry.                                                                                                           |
| 11   | 296/2002  | 34 D(1) of PP Act                             | The case ended in conviction on 14.10.2003, vide STC No.180/2002 by the CJM Court, Puducherry.                                                                                                         |

8. From a perusal of the above, it is seen that apart from Serial Nos.2, 3 and 11, in the 8 other criminal cases, the life convict was acquitted in 6



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cases; the criminal case in one case was closed under Section 468 Cr.P.C.; and the criminal proceedings in another case was quashed by this Court. He was convicted and imposed with a fine of Rs.50/- in two cases mentioned in Serial Nos.2 and 11. The only case in which the prisoner was convicted and sentenced to life imprisonment is mentioned in Serial No.3. It is in connection with this sentence, he now claims for premature release.

9. The Sentence Review Board had totally disregarded these aspects, while rejecting the petitioner's claim. Even in the impugned order, it is stated that there are 11 cases against the life convict, which were committed by him from jail during his period of sentence. We are unable to comprehend as to how the Sentence Review Board or the 4<sup>th</sup> respondent have come to such a conclusion, which is factually incorrect. To further ratify this aspect, when we had specifically put a question to the learned Public Prosecutor as to whether the life convict prisoner was involved in any other case, except these 11 cases, he admitted that there was no other case apart from these 11 cases, out of which, he was acquitted in 8 cases and minor punishments of fine of Rs.50/- was imposed in 2 cases and life imprisonment in one case, in



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which he seeks for premature release. Thus, the very basis on which the rejection order has been made is factually incorrect and thus, the consequential rejection cannot be sustained.

10. The impugned order also speaks about the Probation Officer having given a good conduct certificate in favour of the life prisoner. However, the recommendation was rejected on the ground that there is a danger to the prisoner's life from his rival group, which will affect the public peace and tranquility. Such a statement is not backed with any substantial material, except the police report. This police report is introduced only in the counter affidavit and not in the impugned order. It is a settled principle that the authorities cannot improve their case by introduction of new reasonings, than what is stated in the original rejection order. Even otherwise, the fact remains that the Probation Officer has given a favourable report for grant of premature release.

11. Thus, when the principle ground for rejection was only on the basis of the 11 pending cases, which are now found to be a factual mistake



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and by taking into account of the favourable report of the Probation Officer, we are of the affirmed view that the life convict prisoner would be eligible for premature release.

12. For all the foregoing reasons, the impugned order passed by the 4<sup>th</sup> respondent herein dated 19.01.2024 is quashed. Consequently, the respondents are directed to release the life convict prisoner, namely Pream @ Preamkumar, S/o.Subramani, prematurely forthwith. Accordingly, the Writ Petition stands allowed. No costs.

[M.S.R.,J.] [S.M.,J.]  
28.06.2024

Index: Yes  
Neutral Citation: Yes  
Speaking order

*hvk*

Note: Issue order copy on 28.06.2024



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To  
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**M.S.RAMESH, J.**  
**and**  
**SUNDER MOHAN, J.**

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