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W.P.No.9445 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	26.06.2024
Pronounced on	28.06.2024

CORAM :

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

W.P.No.9445 of 2024

Ravi @ Pokkai Ravi

...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.1070/JD/SJ/PMR/2023-2024 dated 19.01.2024 passed by the 4th respondent, quash the same and direct the respondents to release the life convict prisoner Ravi @ Pokkai9 Ravi, S/o.Elumalai, (M/43) (Prisoner No.1070) lodged at 5th 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 herein, namely Ravi @ Pokkai Ravi, 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 IInd Additional Sessions Judge, Puducherry and sentenced



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to undergo life imprisonment. The appeal filed against the said judgment before this Court in CrI.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 prisoner 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 during his period of imprisonment, he was granted 6 days parole leave from 21.03.2012 to 26.03.2012. However, he had failed to surrender on expiry of the leave and was re-arrested on 15.02.2013, after a lapse of 326 days. It is also stated that there are 4 other cases pending trial and 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



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filed.

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4. The learned counsel for the petitioner submitted that the prisoner had completed 14 years of imprisonment and therefore, he is eligible for premature release. The learned counsel further submitted that during the prisoner's period of imprisonment, he had actively involved himself in various reformation activities and has substantiated to have reformed in his life. He also submitted that the prisoner's family members are suffering without consistent income and therefore, there was no justification on the part of the respondents in rejecting his request.

5. Per contra, the learned Public Prosecutor submitted that the life convict prisoner had earlier committed a jail offence by failing to surrender on expiry of his parole leave for almost 326 days and therefore, he would be ineligible for consideration of premature release. He also submitted that there is a danger to the prisoner's life from his rival group, if he is prematurely released.



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

7. The main ground on which the petitioner's case for premature release has been rejected by the Sentence Review Board, as well as by the 4th respondent herein, is that when he was granted parole leave for 6 days, he had absconded for 326 days without surrendering and therefore, his case does not deserve consideration.

8. In the counter affidavit filed by the respondents, it is stated that after the petitioner had failed to surrender on expiry of his parole leave, he was arrested by the Puducherry Police and re-admitted in the Central Prison on 15.02.2013. In this connection, a case in Crime No.86/2012 under Section 224 of IPC was registered in Mudaliarpur Police Station, Puducherry and he was awarded a sentence of one year simple imprisonment, after holding him guilty of having committed the offence under Section 224 of IPC by the learned Judicial Magistrate-I, Puducherry, through a judgment dated 19.12.2013 in C.C.No.292/2013. His sentence was ordered to be set



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off under Section 428 of the Criminal Procedure Code (hereinafter referred to as 'Cr.P.C.').

9. It is not in dispute that the petitioner herein, who has completed more than 20 years of imprisonment, is “otherwise” eligible for premature release under the provisions of the Rules. The conduct of the respondents in making a reference to the punishment sustained by the prisoner for having committed the offence under Section 224 and denying him the benefit of premature release, which he is otherwise entitled to, is in a way another imposition of punishment. When the petitioner had already been punished for the offence under Section 224 of Cr.P.C., rejecting his request for premature release, on the ground that he was involved for an offence under Section 224, would be opposed to Article 20(2) of the Constitution of India, thereby amounting to double jeopardy. This ratio was reiterated by a Coordinate Bench of this Court in the case of ***Kaliammal Vs. State rep. by The Secretary, Department of Home (Prison) and Others*** reported in 2019 ***SCC OnLine Mad 6434***, in the following manner:-

“6. The petitioner already has undergone to sentence for offence u/s. 3 of the Explosive Substances



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Act. It is understandable if authorities were to deny relief to the prisoner on the ground that he is undergoing the sentence for an offence, commission of which disentitles him to relief under a Government Order for premature release. Visiting a prisoner with denial of relief on the ground that he stands convicted for an offence the sentence for which already he has undergone, in effect amounts to imposing a dual punishment in respect of one and the same offence. Such is impermissible in law.”

10. Merely because the prisoner was punished for the offence under Section 224, it would not empower the jail authorities to continue to quote his involvement throughout his life and deny the benefit of premature release, which he is admittedly otherwise eligible. In the State of Tamil Nadu, a similar position has been regulated by the prison authorities by restricting the denial of any benefits to a prisoner, who is involved in the offence under Section 224 for a maximum period of 5 years only. No such regulation appears to be made in the Union Territory of Puducherry. Even otherwise, the punishment that was imposed to the petitioner was on 19.12.2013 and more than 10 years have lapsed since then. Thus, a reference



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to the petitioner's involvement with such an old case and rejecting his request, is not only unjustifiable, but also opposed to his fundamental right to personal liberty under Article 21. In the case of ***T.P.Gopalakrishnan Vs. State of Kerala*** reported in ***(2022) 14 SC 323***, the Hon'ble Supreme Court had held that the protection against double jeopardy is also included under the scope of Article 21 of the Constitution of India and hence, prosecuting a person for the same offence, for which he was previously convicted and suffered the punishment, affects the person's right to live with dignity.

11. The other reason assigned in the impugned order of rejection is that there is a danger to the prisoner's life from the rival group. In the counter affidavit filed by the respondents, it is stated that the jurisdictional Police of Vallathi Police Station had conducted an enquiry, wherein it was revealed that the life prisoner's release may not create law and order problem. The Probation Officer, in his report dated 16.10.2023, has also recommended for premature release of the prisoner. In spite of these two recommendations, the impugned order makes a baseless remark that there could be danger to the life of the prisoner from his rival gang, which is not



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supported by any material. In the absence of such supporting materials, this observation made in the impugned order does not gain significance.

12. For all the foregoing reasons, the impugned order passed by the 4th respondent herein dated 19.01.2024 is quashed. Consequently, the respondents are directed to release the life convict prisoner, namely Ravi @ Pokkai Ravi, S/o.Elumalai, 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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- 1.The Chief Secretary,
Union Territory of Puducherry,
Puducherry.
- 2.The Home Secretary,
Union Territory of Puducherry,
Puducherry.
- 3.The Inspector General of Prison,
Puducherry.
- 4.The Chief Superintendent of Jails,
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