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W.P.No.11383 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM :

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

W.P.No.11383 of 2024
and W.M.P.No.12517 of 2024

Mrs.Thangamary

... Petitioner

Vs.

1.The State represented by its,
Home Secretary (Prison-IV),
Home Department, Secretariat,
Fort St.George, Chennai – 600 009.

2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore, Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison at Vellore,
Ramset Nagar, Thorapadi, Vellore – 632 002.

4.The Superintendent of Prison,
Central Prison at Parappana Agrahara,
Bengaluru, Karnataka – 560 100.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the 1st respondent to



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consider the petitioner's representation dated on 05.04.2024 within time limit and consequently direct the 1st respondent to release the convict prisoner/Son of the Petitioner namely Mr.Don Bosco S/o.late.Rabel (CT No.11744) who is confining under 4th respondent herein.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The petitioner herein, who is the mother of the life convict namely Don Bosco, S/o.late.Rabel, has come forward with this Writ Petition seeking for premature release pursuant to her representation dated 05.04.2024.

2. The petitioner states that her son was convicted for the offenses under Section 147 IPC and sentenced to undergo 1 year R.I and to pay a fine of Rs.1,000/- and in default to undergo 3 months R.I, under Section 323 r/w.149 IPC and sentenced to undergo 6 months R.I and to pay a fine of Rs.500/- and in default to undergo 1 month R.I, under Section 448 IPC and



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sentenced to undergo 6 months R.I and to pay a fine of Rs.500/- and in default to undergo 1 month R.I, under Section 302 IPC and sentenced to undergo Life Imprisonment and to pay a fine of Rs.5,000/- and in default to undergo 6 months R.I, under Section 323 r/w.149 of IPC (2 counts) and sentenced to undergo 6 months R.I and to pay a fine of Rs.500/- and in default to undergo 1 month R.I by the Sessions Court, Thiruvannamalai in S.C.No.103 of 2003. Aggrieved against the said order, the petitioner filed Crl.A.No.142 of 2009, wherein, the above said conviction and sentences imposed by the trial Court was confirmed except the conviction under Section 323 r/w.149 (2 counts) IPC. Relying upon the Government Orders passed by the first respondent in G.O.Ms.No.488, Home (Prison-IV) Department, dated 15.11.2021, the petitioner has given a representation on 05.04.2024 to the respondents, seeking for premature release of her son. Since the same has not been considered till date, the petitioner has come forward with this Writ Petition.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.



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4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

5. In view of the above observations, this Court, without going into the merits of the petitioner's representation or the contentions of the petitioner in the affidavit filed in support of this Writ Petition, directs the respondents to consider the representation of the petitioner dated 05.04.2024, seeking to release her son prematurely, if not already disposed of and pass appropriate orders on merits and in accordance with law, within a period of three (3) months and communicate the same to the petitioner.



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6. With the above direction, this Writ Petition stands disposed of. No costs. Connected miscellaneous petition is closed.

[M.S.R., J]

[S.M., J]

25.04.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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

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To

- 1.The State represented by its,
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Bengaluru, Karnataka – 560 100.
- 5.The Public Prosecutor,
High Court, Madras.

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