



W.P.No.31099 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.31099 of 2023

Gunasekaran

...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 Puzhal-I,
Thiruvallur District-600 066.

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, seeking to call for the records in impugned order in G.O.(D) No.1205, dated 18.10.2023 to release the petitioner/convict namely, Mr.Gunasekaran S/o.Ganesan (CT No.5941) who is confining at Central Prison, Puzhal-I, who is arrayed as third 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.**)

This Writ Petition has been filed seeking Writ of Certiorarified Mandamus, to call for records of the impugned order made in G.O.(D) No.1205, dated 18.10.2023, and to release the petitioner / convict namely, Mr.Gunasekaran S/o.Ganesan (CT No.5941) who is confined at Central Prison, Puzhal-I, Thiruvallur District.



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2.The petitioner's request for premature release has been rejected by the Government vide G.O.(D).No.1205, Home (Prison-IV) Department, dated 18.10.2023, predominately on the grounds that a case was pending trial against the petitioner in Cr.No.604 of 2018 under Section 42 of the Prisons Act, 1894 before the Judicial Magistrate Court, Thiruvottiur and also on the ground that his remission would be premature as he has not served 14 years in prison as on 15.09.2023. This Government order has put under challenge in the present Writ Petition.

3.Heard the learned counsel for the petitioner, and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondents, and perused the materials available on records.

4.Both the grounds on which the request for premature release has been rejected cannot be sustained for the following reasons. Firstly, the case against the petitioner in Cr.No.604 of 2018 was earlier challenged by him in CrI.O.P.No.24109 of 2022, and vide order dated 10.10.2022, the criminal proceedings in Cr.No.604 of 2018 came to be quashed as barred by



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limitation. Insofar as the second reason assigned in the impugned order that the petitioner's remission would be premature as he has not completed 14 years in prison as on 15.08.2023 is concerned, this reasoning, seems to be a misconception of the facts. As a matter of fact, in Paragraph 5 of the impugned Government order itself, it is admitted that the petitioner has completed 11 years, 10 months and 9 days. The Regulation governing the premature release on this ground is under G.O.No.488, Home (Prison-IV) Department, dated 15.11.2021, which prescribes the minimum period to be served as 10 years and not 14 years. While that being so, the second reason on which the petitioner's request for his premature release also cannot be sustained for all the forgoing reasons.

5.In view of the above, the impugned order in G.O.(D).No.1205, Home (Prison-IV) Department, dated 18.10.2023 is quashed. Consequently, the matter is remitted back to the first respondent herein for re-consideration on merits by applying G.O.No.488, Home (Prison-IV) Department, dated 15.11.2021, within a period of six (6) weeks from the date of receipt of a copy of this order.



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WEB COPY 6. With the above directions, the Writ Petition stands allowed. No

Costs.

(M.S.R.,J.) (S.M.,J.)
11.01.2024

Anu
Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No

To

1. The 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 Puzhal-I,
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4. The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J
and

SUNDER MOHAN, J

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