



W.P.No.34147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No.34147 of 2023

S. Logeswari

... Petitioner

Vs.

1. The State of Tamil Nadu
Represented by the Secretary to Government,
Home, Prohibition and Excise Department,
The Secretariat,
Chennai – 600 009.

2. The Director General of Police/
Director General of Prisons and
Correctional Services,
Egmore, Chennai – 600 008.

3. The Superintendent,
Central Prison,
Salem.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the impugned order No.27118/PS1/2018 dated 05.04.2023 passed by the 2nd respondent and quash the same as illegal and arbitrary and consequently directing the 1st and 2nd respondents to consider the petitioner's representation dated 19.01.2023 seeking premature release her father, a life convict prisoner Mr. Sivaraman, in accordance with the G.O.(Ms). No.488 Home (Prison IV) Department dated 15.11.2021 as amended from time to time and also in accordance with the G.O.(Ms) No.589 Home (Prison-IV) Department dated 22.12.2021.

For Petitioner : Mr. Balaji Thirumoorthy

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The Writ Petition has been instituted to quash the order dated 05.04.2023 rejecting the application submitted on behalf of the detenue for premature release.



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2. The petitioner is the daughter of the detenu, P.Sivaraman S/o.Pandurangan, a life convict prisoner No.9001. An application was filed seeking premature release of the life convict. The counter filed on behalf of the respondents would reveal that two criminal cases are pending in Crime No.400/2008 under 379 r/w. 468, 469, 471 IPC and Crime No.176 of 2021 under Section 42 of the Prisons Act 1894. Since two criminal cases are pending for trial, the competent authority rejected the application submitted for premature release of the life convict.

3. The learned Additional Public Prosecutor appearing for the respondents relied on the judgment of the Hon'ble Supreme Court of India in CrI.A.No.144 of 2020, in the case of Home Secretary (prison) and others /vs/ H.Nilofher Nisha, dated 23.01.2020., wherein the following observations are made:-

“ 27. We would also like to point out that the grant of remission or parole is not a right vested with the prisoner. It is a privilege available to the prisoner on fulfilling certain conditions. This is a discretionary power which has to be exercised by the authorities conferred with such powers under the relevant rules/regulations. The Court cannot exercise



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these powers though once the powers are exercised, the court may hold that the exercise of powers is not in accordance with rules. “

Relying on the above Rulings of the Supreme Court, the respondents rejected the application.

4. The learned counsel for the petitioner would submit that even if other criminal cases are pending, the case of the convict can be considered under other Government Orders. If the petitioner has chosen to file an application on any other ground, he is at liberty to do so by submitting an application to the competent authority.

5. With the liberty, this writ petition stands dismissed.

[S.M.S., J.]

[V.S.G., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

mrp

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Home, Prohibition and Excise Department,
The Secretariat,



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