



W.P(MD)No.2086 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.04.2024

CORAM

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.P.(MD).No.2086 of 2024
and
W.M.P(MD)No.2091 of 2024

B.Kalaieswari

.. Petitioner

Vs.

- 1.State of Tamil nadu,
Rep. by the Principal Secretary to Government,
Home (Prison-IV) Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Director General of Police/
Director General of Prison and Correctional Service,
Egmore,
Chennai-600 008.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai-625 016.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the first respondent to release the petitioner's father, namely, Boominathan, S/o.Rajkumar (C.P.No.4558) based on the recommendation made by the Advisory Board as per Rule 341 of the Tamil Nadu Prison Rule, 1983.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA,J.)

The present Writ Petition is filed for a writ of mandamus seeking to direct the first respondent to release the petitioner's father, namely, Boominathan, S/o.Rajkumar (C.P.No.4558) based on the recommendation made by the Advisory Board as per Rule 341 of the Tamil Nadu Prison Rule, 1983.

2. The case of the petitioner is that his father is a life convict. He is aged about 80 years old and he is in prison for more than 30 years. Due to the old age and various health ailments, he is unable to walk. He is walking



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and attending the natural call with the help of others. The jail authorities are also unable to maintain him in the prison. Considering his good conduct, old age and health condition, the petitioner's father was placed before the Advisory Board for the premature release under Rule 341 of the Tamil Nadu Prison Rule, 1983 and the Advisory Board recommended for the premature release of her father to the second respondent. The second respondent forwarded the same to the first respondent and the first respondent has not taken any further steps based on the Advisory Board and thereby, the petitioner has filed the present writ petition.

3. When the matter was listed on 08.04.2024, a detailed counter affidavit was filed by the respondents and the learned Additional Public Prosecutor appearing for the respondents submitted that the proposal for consideration of the premature release of the petitioner's father is under active consideration of the Government and as per the prevailing procedure, an opinion was sought for under Section 432(2) Cr.P.C., from the concerned trial Judge and since the opinion has not been received so far, the respondents are not in a position to pass further orders.



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4. This Court, finding that the request was pending from 08.05.2023, had directed the trial Judge, namely the Additional District and Sessions Judge, Fast Track Court, Ramanathapuram to offer his considered opinion under Section 432(2) Cr.P.C., based on the Government Letter, dated 08.05.2023. Pursuant to which, a report dated 26.04.2024 has been filed by the trial Court. In view of the above, we direct the respondents to proceed further and pass final orders in accordance with law for premature release based on the opinion of the trial Judge, within a period of six weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(A.D.J.C.,J.) (K.R.S.,J.)
29.04.2024

NCC : Yes / No
Index : Yes / No
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To

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1. The Principal Secretary to Government,
Home (Prison-IV) Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Director General of Police/
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Egmore,
Chennai-600 008.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai-625 016.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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A.D.JAGADISH CHANDIRA,J.
and
K.RAJASEKAR,J.

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29.04.2024