



W.P(MD) No.13512 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 13.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.P(MD) No.13512 of 2024
and
W.M.P.(MD)No.11918 of 2024**

Vanaraj

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by,
The Principal Secretary to Government,
Home (Prison) Department,
Fort St.George,
Chennai-600009.
- 2.The Director General of Police /
Director of Prisons and Correctional Services,
C.M.D.A.Towers II,
No.1, Gandhi Irvin Road,
Elumbur, Chennai-8.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining G.O(D)No.1127 dated 26.09.2023 passed by the 1st respondent and quash the same and consequently to release the petitioner by name Vanaraj, S/o.Ganapathy aged about 48 years now confining at Madurai Central Prison under premature release on the basis of the Premature release policy and Government Order of the Respondent No.1 as it stood on the date of the petitioner conviction as on 05.12.2012 and in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.K.Vijaysathya

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The petitioner was convicted and sentenced vide Judgment dated 02.08.2011 in S.C.No.206 of 2010 on the file of the Additional Sessions Judge (Fast Track Court No.1), Thoothukudi. The details of conviction and sentence are as follows:-



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S.No.	Offences	Conviction
1	Section 302 IPC	Imprisonment for life
2	Section 324 IPC	Imprisonment for one year
3	Section 506(II) IPC	Rigorous Imprisonment for two years

Aggrieved by the same, the petitioner filed Crl.A.(MD)No.347 of 2011. But it was dismissed on 05.12.2012. The petitioner applied for premature release by invoking G.O.Ms.No.488, Home Prison Department, dated 15.11.2021. The case of the petitioner was recommended by the State Level Committee. The council of ministers also endorsed the said recommendation. However, the head of the State took a dissenting view. As a result of which, the impugned rejection order came to be passed vide G.O.(D).No.1127, dated 26.09.2023. Questioning the same, this writ petition came to be filed.

3. The case on hand is squarely covered by the decisions of the Hon'ble Supreme Court rendered in ***A.G.Perarivalan v. State through Superintendent of Police, CBI/SIT/MMDA, Chennai (2023) 8 SCC 257*** and the decision of the Hon'ble Supreme Court rendered in ***W.P.No. 14908 of 2024 dated 17.10.2024 (Veera Bharathi Vs. State)***. The



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petitioner had admittedly completed 10 years of actual imprisonment as of 15.09.2021. He also fulfils all the other conditions set out in G.O.Ms.No.488, Home Prison Department, dated 15.11.2021. Therefore, the Head of the State ought not to have taken a contra view. Recommendation of the council of ministers was clearly binding on the Head of the State. In this view of the matter, the impugned G.O.(D)No. 1127, dated 26.09.2023 is set aside. The first respondent/Government is directed to recirculate the files and thereafter, take a decision afresh and issue orders on merits and in accordance with law as expeditiously as possible.

4. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (R.P., J.)
13.11.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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