



W.P(MD) No.24266 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 22.10.2024

CORAM

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HON'BLE MS.JUSTICE R.POORNIMA**

W.P(MD) No.24266 of 2024

Ponnudurai

... Petitioner

Vs

1. The Principal Secretary to Government
O/o. The Principal Secretary to Government
Home (Prison-IV) Department,
Secretariat, St.George Fort,
Chennai
2. The Inspector General of Prisons(Administration)
O/o. Tamil Nadu Prisons Head Quarters,
Whannels Road, Egmore, Chennai- 8
(R2 suo motu impleaded vide court order
dated 16.10.2024)
3. The Deputy Inspector General of Prisons,
Prisons and Correctional Services Department,
Madurai Range,Madurai Central Prison Campus,
New Jail Raod, Madurai
4. The Superintendent of Prison,
Central Jail,
Palayamkottai,
Tiruenelveli District

... 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 to the impugned order in No.8746/தகு. 1/2024 dated 23.08.2024 passed by the third respondent and quash the same as illegal and subsequently direct the respondents to release the petitioner's brother namely Sundharavel, S/o.Arjunan, (LCP No. 8746) prematurely in lighten of the Government Order in G.O.Ms.No.64, Home(Pre-IV) department dated 01.02.2018, G.O.Ms.488, Home (Pre-IV)department dated 15.11.2021 and G.O.Ms.No.430, Home(Pre-IV) department dated 11.08.2023.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor.

ORDER

The writ petition has been filed in the nature of certiorarified mandamus seeking to call for the records dated 23.08.2024 in No. 8746/தகு.1/2024 passed by the third respondent and quash the same and direct the respondents to release the brother of the petitioner, Sundharavel, S/o.Arjunan, (LCP No 8746), now confined at Central Prison, Palayamkottai.



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2. The petitioner had placed reliance in G.O.Ms.No.64, Home(Pre-IV) department dated 01.02.2018, G.O.Ms.488, Home (Pre-IV)department dated 15.11.2021 and G.O.Ms.No.430, Home(Pre-IV) department dated 11.08.2023.

3. In the affidavit filed in support of the petition, it had been contended that the brother of the petitioner had been convicted in SC. No. 283 of 2004 by judgment dated 27.07.2005 on the file of the learned Principal District and Sessions Judge, Tirunelveli and convicted for the offence under Section 302 of IPC and sentenced to undergo life imprisonment and a fine of Rs.1000/-i/d to undergo three years rigorous imprisonment. Appeal had been filed before the Division Bench of this Court in CrI.A(MD) No. 402 of 2005 and by judgment dated 10.04.2007 had confirmed the conviction. In the affidavit it had been very specifically stated that no further appeal had been filed before the Hon'ble Supreme Court. It had been contended that the brother of the petitioner had been suffering incarceration subsequent to conviction for over 10 years and therefore, stated that he will be eligible to be



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considered for premature release. But, however, relating to the aforementioned Government Orders may not come to the assistance of the petitioner herein.

4. In view of the nature of the averments this Court *suomotu* by an order dated 16.10.2024 had also impleaded The Inspector General of Prisons(Administration), Chennai as a party.

5. We sought for counter by the Inspector General of Prisons(Administration), Head quarters who had filed a status report stating about the factors of the case. It had been stated that the case of the brother of the petitioner was examined on an earlier date and he was found to be ineligible to be granted premature release. But , however it has been stated as follows:

“7.Further, it is submitted that though the petitioner's brother life convict prisoner PID No. 119608, Sundaravel , son of Arjunan has completed his 14 years of imprisonment on 07.06.2023, his case was not considered for premature release under clause



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5(II)(d) of G.O.Ms.No.430, Home, (Pri.IV) Department dated 11.08.2023. This clause states that "Prisoners should not have pending cases except their criminal appeals, if any, pending against their conviction as on 15.09.2023". Since the above said prisoner had two pending cases at the time of consideration, his case was not taken up for consideration. The petitioner's brother/life convict prisoner PID No.119608, Sundaravel son of Arjunan has completed 15 years and 3 months and 17 days of actual imprisonment as on 30.09.2024.....

8. It is submitted that, since the prisoner has completed 14 years of sentence, the Superintendent, Central Prison, Palayamkottai has called for the report of the District Collector for placing his case before the Advisory Board Scheme for consideration of premature release. On receipt of such report, his case will be considered for premature under Advisory Board Scheme. Further more, it is submitted that, in future, if



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the Government frames any new guidelines for the premature release of life convicts on any special occasions, and if the above prisoner is found eligible, his case will also be considered accordingly”.

6. It had also been stated by communication dated 23.08.2024, that specific rejection order had not been passed. We record that the statement made in the counter that the case of the brother of the petitioner would be placed before the Advisory Board provided the District Collector also files necessary report in that regard.

7. We are confident that the District Collector would file necessary report relating to the brother of the petitioner who is eligible to be considered for premature release. We are conscious that we cannot step into the shoes of the Advisory Board and we are only stating that if at all the Advisory Board is constituted and then if there are no other hurdles the case of the brother of the petitioner could be given due consideration by the Advisory Board.



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8. Stating as above, the Writ Petition stands disposed of.

(C.V.K., J.) (R.P, J.)
22.10.2024

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

1. The Principal Secretary to Government
O/o. The Principal Secretary to Government
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Chennai
2. The Inspector General of Prisons(Administration)
O/o. Tamil Nadu Prisons Head Quarters,
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4. The Superintendent of Prison,
Central Jail,
Palayamkottai,
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5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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