



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD) No.27764 of 2023
and
W.M.P.(MD) Nos.23874 & 23875 of 2023

T.Pechiyammal

... Petitioner

-VS-

The State represented by its

1.The Secretary to Government of Tamilnadu
Home Department
Fort St.George, Chennai-600 009

2.The Superintendent
Trichy Central Prison
Trichy-620 020

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the G.O. (D) No.1488, dated 07.11.2022, issued by the first respondent and to quash the same and consequently, direct the respondents to release the detenu Sudalaimuthu, son of Nallaperumal, aged about 45 years, Convict No.12000,



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confined at Central Prison, Trichy, prematurely, as per G.O.(Ms) No.1155, dated 11.09.2008 and G.O.(Ms) No.64, dated 01.02.2018.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Prayer in this writ petition is to quash the Government Order in G.O.(D) No.1488, dated 07.11.2022, passed by the first respondent, rejecting the request of the petitioner to grant premature release to her brother / convict, namely, Sudalaimuthu, son of Nallaperumal, aged about 45 years, Convict No.12000, confined at Central Prison, Trichy, and to grant him premature release as per G.O.(Ms) No.1155, dated 11.09.2008 and G.O.(Ms) No.64, dated 01.02.2018.

2. It is the case of the petitioner that her brother / life convict is in incarceration pursuant to the Judgment, dated 28.03.2003, passed in S.C.No.288 of 2022, by the learned Additional District and Sessions Judge-cum-Chief Judicial Magistrate, Tuticorin, for the offences under Sections 302 r/w 34, 341 and 506(II) I.P.C., and the appeal preferred by him challenging his



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conviction and sentence was dismissed by this Court *vide* Judgment dated 06.09.2006 passed in CrI.A.(MD) No.859 of 2003. He is in incarceration for the past 24 years. Though the convicts are barred for premature release under these penal provisions and premature release is not applicable to them under the Tamil Nadu Prison Rules, 1983, since the convict in this case has served the sentence for nearly 24 years, he is eligible for premature release. In an identical situation, one Babu, a life convict, was granted premature release on completion of fourteen years of imprisonment, pursuant to G.O.(Ms) No.67, Home Department, dated 22.01.2003. In such circumstances, the Government passed G.O.(Ms) No.1155, dated 11.09.2008 and G.O.(Ms) No.64, dated 01.02.2018, granting premature release to the life convicts, who have completed seven years of actual imprisonment as on 15.09.2008 and ten years of actual imprisonment as on 25.02.2018 respectively. Therefore, seeking grant of premature release to her brother, the petitioner submitted a representation to the respondents on 20.02.2020. However, the respondents, in an arbitrary and discriminatory manner, by the impugned order dated 07.11.2022, have rejected the request of the petitioner for grant of premature release to her brother.

3. The respondents have filed a detailed counter affidavit.



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4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that the petitioner's request for grant of premature release to her brother has been rejected on the grounds that he had a pending criminal case in Crime No.49 of 2012, on the file of SIPCOT Police Station, on the crucial date of 25.02.2018; he was convicted and sentenced to imprisonment for life in two different cases and he has been convicted and sentenced for the offence of escape from lawful custody, thereby, he was not granted the premature release. He would further submit that grant of premature release to the prisoners is a one-time affair and it cannot be extended later on to the prisoners who fulfil the conditions stipulated in the Government Order.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. Though the petitioner claims premature release to her brother, who is a life convict, a perusal of the impugned order shows that the convict had not satisfied the conditions on the crucial date i.e., 25.02.2018 as on the said date, he was having a criminal case in Crime No.49 of 2012, on the file of SIPCOT Police Station, for the offence under Sections 364, 120(b) and 201



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I.P.C., pending against him and he was acquitted from the said charges only after the crucial date of 25.02.2018 i.e. on 04.02.2019. Further, the prisoners, who are convicted for the offences, including escape or attempting to escape from lawful custody (except overstayal of parole leave only), are not entitled to grant of premature release. Whereas, the convict herein has been convicted and sentenced for the offence of escape from lawful custody and he has been convicted and sentenced to imprisonment for life in two different cases. Therefore, having gone through the materials available on record, we do not find any discrimination or arbitrariness on the part of the first respondent while passing the impugned rejection order.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.]

[K.R.S., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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- 2.The Superintendent,
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