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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.P.(MD).No.28564 of 2023

Shobana .. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by,
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Secretariat,
Chennai – 9.

2.The Additional Director General of Police /
Inspector General of Prisons,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Egmore,
Chennai - 8.

3.The Superintendent of Prison,
Madurai Special Prison for Women,
Madurai District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents to release the petitioner's mother by name Subbulakshmi, Wife of Marisamy,

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(FCP No.202) aged about 60 years, now confining at Madurai Special Prison for women under premature release on the basis of the 75th Anniversary of the Indian Independence special remission to prisoners "Azadi Ka Amrit Mahotsav" or any other scheme or any other Government scheme and on basis of the order of this Court in W.P.(MD).No.23904 of 2023 dated 29.09.2023 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The present Writ Petition is filed by the daughter of the convict, seeking direction to the respondents to release her mother prematurely.

2. The Trial Court convicted the petitioner's mother for the offence under Section 302 IPC and sentenced her to undergo life imprisonment. On appeal, the High Court felt that the case falls under Exception No.4 of Section 300 IPC and therefore, modified the conviction and sentenced her to undergo three years of rigorous imprisonment for the offence under Section

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304(II) IPC. Thus, based on the modification of the sentence, now an application is filed for premature release based on the guidelines issued by the Central Government in view of the 75th Independence Day celebration, popularly known as “Azadi Ka Amrit Mahotsav”.

3. The request for premature release was declined by the State Government for the reason that the convict is found eligible to be considered under the special remission scheme in the III phase, but not released prematurely for the reason that the State Government has taken a policy decision that the special remission scheme shall not apply to the convicts sentenced under Section 304 IPC. In this regard, the communication of the Director General of Police to the learned Additional Public Prosecutor, Madurai Bench of Madras High Court dated 14.12.2023, details out the number of persons, who have been prematurely released in view of the special remission G.O.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the prison records now indicate that the petitioner's mother is likely to be released on or before 31.03.2024, if she

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maintains good conduct. The guidelines of the Central Government will only have a persuasive effect on the State Government and the State Government based on the prevailing G.O. and the other materials available on record in respect of the convict, had now taken a decision not to apply the special remission scheme recommended by the Central Government, but on their own, had taken a decision that the petitioner's mother shall be released on or before 31.03.2024, if she maintains good conduct.

5. In view of the submissions made by the learned Additional Public Prosecutor, the Writ Petition is disposed of. There shall be no order as to costs.

(G.J.,J.) (C.K.,J.)
22.02.2024

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

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3.The Superintendent of Prison,
Madurai Special Prison for Women,
Madurai District.

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

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DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

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W.P.(MD).No.28564 of 2023

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