



W.P.(MD) No.817 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM:

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

W.P.(MD) No.817 of 2024

and

W.M.P.(MD) No.820 of 2024

T.Brinthatharan

... Petitioner

-VS-

- 1.The State of Tamil Nadu
rep.by the Principal Secretary to Government
Home (Prison-IVA) Department
State of Tamil Nadu
Secretariat, St.George Fort, 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 Deputy Inspector General of Prison
Office of the Deputy Inspector General of Prison
Vellore Division, Madurai Central Prison Campus
Vellore
- 4.The Superintendent of Prison
Cuddalore Central Prison
Cuddalore District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records connected with the impugned G.O.(D) No.1260, dated 31.10.2023, issued by the first respondent and quash the same as illegal, consequently to direct the respondents to release the petitioner's father, by name, C.Thamotharan (C.P.No.14883), son of Chithambaram, aged about 55 years, now lodged and confined at Central Prison, Cuddalore, have completed the more than 21 years of actual sentence on the basis of the under Rule 341(2) of the Tamil Nadu Prison Rule, 1983 and on the basis of G.O.(Ms) No.430 (Home Prison-IV) Department, dated 11.08.2023 in accordance with law, within the time stipulated by this Court.

For Petitioner : Mr.R.Prakash

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

ORDER

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

The order dated 31.10.2023, passed by the first respondent, rejecting premature release of the petitioner's father, a life convict, on the grounds of law and order problem and life threat, is under challenge in this writ petition.



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2. The only grievance of the petitioner is that when the case of the petitioner's father was placed before the Advisory Board on 27.09.2022 for premature release, the reports of the year 2017 of the concerned District Collector and Probation Officer were taken into consideration and thereby, the decision arrived at by the Advisory Board in the year 2022 based on the reports of the year 2017 is not proper. Hence, the petitioner seeks for setting aside the impugned order and seeks for release of her father.

3. Learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that the the petitioner's father was convicted in S.C.No.99 of 2006, on the file of the Additional District Sessions Court, Fast Track Court No.II, Tuticorin, by Judgment dated 26.10.2006 and in S.C.No.170 of 2001, on the file of the Additional District Sessions Court, Fast Track Court No.I, Tuticorin, by Judgment dated 10.04.2008. He would further submit that the Advisory Board, taking into consideration the reports of the concerned District Collector and Probation Officer that the convict prisoner was involved in extremely violent murder, which (was purely) had communal overtones in a communally sensitive area, had rejected the premature release of the petitioner's father, on the grounds of



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law and order problem and life threat to the convict. Therefore, he prays for dismissal of this writ petition.

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

5. On a careful perusal of the materials, we find that the convict had completed fourteen years of imprisonment on 17.08.2016 and when his case was placed before the Advisory Board for premature release on completion of 14 years of imprisonment, the reports of the year 2017 of the concerned District Collector and the Probation Officer were placed before the Advisory Board meeting scheduled on 27.09.2022. It is to be noted that, taking into consideration the reports issued several years back would not at all reflect the correct satisfaction of the authority concerned. Further, the Government has also, based on the very same reports of the year 2017 and the order of the Advisory Board dated 27.09.2022, rejected the premature release of the convict. Hence, we are of the view that considering the reports of the year 2017 in the Advisory Board Meeting held in the year 2022 is not proper and this has caused prejudice to the case of the prison inmate. On this sole ground, the impugned order is liable to be set aside.



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6. Accordingly, we pass the following orders:

- (i) The writ petition is allowed.
- (ii) The impugned order dated 31.10.2023, in G.O.(D) No.1260, Home (Prison-IVA) Department, passed by the first respondent, is set aside.
- (iii) The respondents 2 to 4 shall place the case of the petitioner's father before the Advisory Board, after calling for the reports from the concerned District Collector and the Probation Order, for passing orders afresh.
- (iv) No costs.
- (v) 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:

- 1.The Principal Secretary to Government,
Home (Prison-IVA) Department,
State of Tamil Nadu,
Secretariat, St.George Fort.
Chennai-9.
- 2.The Additional Director General of Police /
Inspector General of Prisons,
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AND
K.RAJASEKAR, J.

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