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W.P.No.2077 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Writ Petition No.2077 of 2025 and
W.M.P.Nos.2432 and 2435 of 2025

A.Ganga @ Gangathar ... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
 - 2.The Director General of Police/
Inspector General of Prisons and Correctional Service,
Whannels Road,
Egmore, Chennai – 600 008.
 - 3.The Superintendent of Prison,
Central Prison,
Vellore – 632 002.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records in the order bearing No. in with order in G.O.(D) No.1223 Home (Prison-IVA) Department dated 10.10.2024, passed by the respondent No.1 and quash the same and directing the respondents to release the petitioner namely Ganga @ Gangathar @ Gangatharan S/o. Anjinappa, aged about 44 years, Life Convict, Ct.No.16126, now confined in Central Prison, Vellore – 2, immediately under the scheme of 1994 policy for premature release of life convicts.



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For Petitioner : Mr.P.Pugalenth
Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

*(Order of the Court was made by **M.S.RAMESH, J.**)*

It is a specific case of the petitioner that during the occurrence for which he was tried, convicted and sentenced to undergo life imprisonment, he was a juvenile. He, therefore, seeks for interference to the sentence of life imprisonment.

2. It is the case of the prosecution that the prisoner herein had committed the offence under Section 376 read with 302 IPC on 07.10.1996. After due trial, he was convicted for the said offence and a judgment was passed in S.C.No.164 of 2000 on 28.01.2001. The further appeal in Crl.A.No.365 of 2002 was also dismissed by this Court on 20.11.2007. Thereafter, no further appeal was filed. In none of these proceedings, the petitioner had taken a plea that he was a juvenile at the time of occurrence.

3. Incidentally, when the petitioner herein had approached the Juvenile Justice Board through a representation dated 02.11.2024 for



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determination of his age at the time of occurrence, the same has been rejected on 28.11.2024 by observing that appropriate orders can be obtained by the petitioner from the High Court and thereby, rejected the petitioner's request.

4. The Hon'ble Supreme Court in ***Karan v. State of M.P., (2023) 5 SCC 504*** had held that determination of age for a person, who claims to be a Juvenile can be recognised at any stage even after the case has been finally decided.

“14. A perusal of the aforesaid section firstly gives a right to a person alleged to have committed an offence to claim that he is a child on the date of commission of offence and if such a claim is raised, the court concerned shall make an inquiry, take such evidence as may be necessary other than the affidavit to determine the age of such person. The proviso to sub-section (2) further makes it clear that such a claim can be raised before any court and the same could be recognised at any stage even after the case has been finally decided. The claim so made would be determined in accordance with the provisions of the 2015 Act and the Rules made thereunder even if such person has ceased to be a child whether on or before the commencement of the



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2015 Act. The law provides full coverage to a person who is established to be a child on the date of the offence to avail the benefits admissible to a child under the 2015 Act even if the case has been finally decided and also such person has attained majority. Further, sub-section (3) provides that if it is found in the inquiry that such person was a child on the date of commission of such offence then the court is required to forward the child to the Juvenile Justice Board (in short “JJB”) for passing appropriate orders and further if any sentence has been imposed by the court, the same shall be deemed to have no effect. In view of the above statutory provisions and in view of the findings recorded, the appellant having been held to be a child on the date of commission of the offence, the sentence imposed has to be made ineffective.”

5. Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as JJ Act) provides for a procedure to be adopted by the Juvenile Justice Board for determination of a person's age when there is a doubt. For ready reference, Section 94(2) of the Act is extracted hereunder:

“(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the



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person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.”

As such, the claim of the petitioner for re-determination of his age at the time of occurrence can be entertained.

6. In the light of the aforesaid observations and findings, we are of the view that the petitioner can be delegated to the Juvenile Justice Board, Krishnagiri for determination of his age as on 07.10.1996. Accordingly, the order dated 28.11.2024 of the Juvenile Justice Board is set aside.



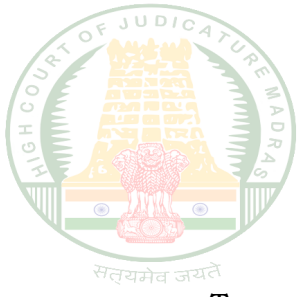
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Consequently, there shall be direction to the third respondent herein to produce the petitioner before the Juvenile Justice Board along with a copy of this order. On receipt of the order, the Juvenile Justice Board shall initiate proceedings under Section 94(2) of the JJ Act for determination of the petitioner's age as on 07.10.1996 and pass appropriate orders as expeditiously as possible.

7. Writ Petition is disposed of, accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

(M.S.R, J.) (V.L.N, J.)
20.06.2025

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To

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Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
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M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.

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Writ Petition No.2077 of 2025
and W.M.P.Nos.5934 and 5935 of 2025

20.06.2025