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W.P.No.5678 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.5678 of 2024
and W.M.P.No.6595 of 2024

Ganesan

... Petitioner

Vs.

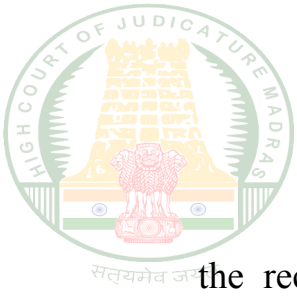
1.The State rep. by its,
The Principal Secretary to Government,
Home (Prison-IV) Department,
Secretariat,
Fort St.George, Chennai – 600 009.

2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore,
Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison at Palayamkottai,
Tirunelveli District – 627 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of Writ of Certiorarified Mandamus, calling for



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the records pertaining to the impugned order in No.G.O.(D) No.1361 dated 24.11.2023 passed by the 1st respondent and quash the same consequently directing the 1st respondent to release the petitioner namely Mr.Ganesan, S/o.Arunachala Nadar (CT No.4520) who is confining at 3rd respondent herein.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

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

Claiming the benefit of G.O.(Ms) No.488, Home (Prison-IV) Department, dated 15.11.2021, on the ground that the petitioner/prisoner had completed 10 years of actual imprisonment as on 15.09.2021, the petitioner had sought for premature release before the Government. By an impugned order dated 24.11.2023 passed in G.O.(D) No.1361, Home (Prison-IV) Department, his request for premature release has been rejected, which order is under challenged in the present Writ Petition.

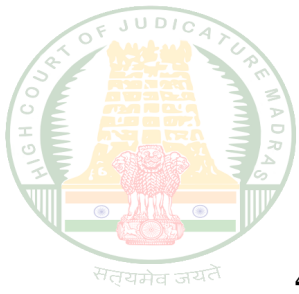


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2. In the impugned order dated 24.11.2023, the reason assigned for rejection is that when the petitioner/prisoner was released on emergency leave for 6 days on 25.01.1995, he had failed to surrender before the prison authority on 01.02.1995 and had absconded for more than 21 years. Thereafter, he was secured only when he was arrested in another criminal case in Crime No.116 of 1995 and was remanded.

3. The learned counsel for the petitioner placed reliance on Clause 2(A)(ii)(8) of G.O.(Ms) No.488, dated 15.11.2021 and submitted that the ineligibility condition for a prisoner who had escaped or attempted to escape from lawful custody under Section 224 of IPC, will not apply to the cases of emergency or ordinary leave and therefore, the reason assigned in the impugned order is incorrect. He has also placed reliance on a decision of this Court in the case of '*Ravi @ Pokkai Ravi Vs. Union Territory of Puducherry*' passed in *W.P.No.9445 of 2024 dated 28.06.2024* and submitted that the prison authority can quote the involvement of prisoner for an offence under Section 224 only for a maximum period of 5 years and therefore, the reference to his failure to return to the prison till the year 2016, cannot be legally sustained.

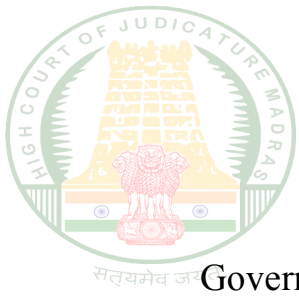


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4. On the other hand, the learned Additional Public Prosecutor appearing for the respondents would submit that the scheme of premature release under G.O.(Ms) No.488 dated 15.11.2021 is not a right which can be claimed by the convict prisoner and that the prison authorities will be well within their rights to reject the claim in accordance with the conduct of the prisoner, as well as the guidelines under the various schemes for premature release. It is his submission that since the petitioner/prisoner had earlier absconded for an inordinate period of 21 years, the Government had rightfully exercised its discretion and rejected the petitioner's claim.

5. The petitioner seeks for grant of orders for premature release on the strength of G.O.(Ms) No.488 dated 15.11.2021. As per the said Government Order, all life convicts who have completed 10 years of actual imprisonment as on 15.09.2021, may be considered for premature release subject to the satisfaction of certain conditions. Insofar as the entitlement of the life convict to seek for premature release, the Government Order clarifies that the claim for premature release is not a matter of right and could be the sole discretion and prerogative of the



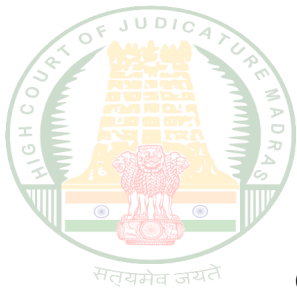
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Government. The relevant clauses in G.O.(Ms) No.488 dated 15.11.2021,
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reads as follows:-

“(E) The life imprisonment prisoners cannot claim premature release as a matter of right.

(F) This premature release is also applicable to the life convict prisoners, who have been convicted by the Court of criminal jurisdiction of the State of Tamil Nadu and are now undergoing their sentence in the prisons of other States/Union Territories on reciprocal basis. However, this order shall not be applicable to those prisoners who have been convicted by Court of criminal jurisdiction of other States/Union Territories/ Other Countries but undergoing imprisonment in this State.

(G) The above guidelines framed deals with the eligibility of the life convict prisoners for consideration of the Government and mere fulfilment of the above condition prescribed in the guidelines does not confer any right for premature release for the life convict prisoners and it is the sole discretion and prerogative of the Government taking into account the other factors like the nature of offence and its effect on society, fitness for rehabilitation into society and public interest, etc.”



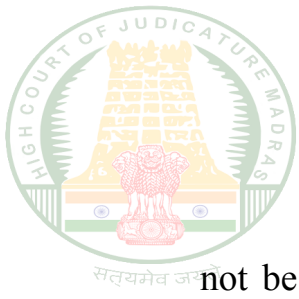
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6. A bare perusal of the aforesaid clauses, would clearly establish that a life convict who has completed 10 years of imprisonment, could not be automatically entitled to be released prematurely, but it would be the discretion of the prerogative of the Government to take into consideration the pros and cons of grant of such release. One of the preliminary condition for such consideration is that the prisoner's behaviour should be satisfactory.

7. In the instant case, the life convict prisoner had earlier absconded for over 21 years during his emergency leave. It is on consideration of this adverse remark during his sentence period, the Government had rejected his request through the impugned order dated 19.01.2024. In our view, such a discretion for rejection was rightly exercised by the Government.

8. The learned counsel for the petitioner placed reliance on ***Ravi @ Pokkai Ravi's case (supra)*** for the proposition that when a prisoner has already been punished for an offence under Section 224 of Cr.P.C, the said punishment cannot be quoted as a bar for grant of premature release, after a period of 5 years. The decision relied upon by the learned counsel may



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not be of any assistance to him for the simple reason that the impugned order does not referred to the petitioner's punishment under Section 224 of Cr.P.C., as a reason for denial of his claim. On the other hand, the Government had referred to the petitioner's conduct of absconding during emergency leave for almost 22 years and thereby, exercised its discretion to deny the claim.

9. In these circumstances, we do not find any reason to interfere with the impugned order and accordingly, this Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

[M.S.R, J.]

[N.S, J.]

24.03.2025

Index: Yes/No

Speaking order/Non-speaking order

Internet: Yes/No

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M.S.RAMESH, J.
and
N. SENTHILKUMAR, J.

Sni

To

1.The Principal Secretary to Government,
Home (Prison-IV) Department, Secretariat,
Fort St.George, Chennai – 600 009.

2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore, Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison at Palayamkottai,
Tirunelveli District – 627 002.

4.The Public Prosecutor,
High Court, Madras.

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