



W.P.No.18934 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

CORAM :

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

W.P.No.18934 of 2025

and

W.M.P.No.21227 of 2025

Kokila

...Petitioner

Vs.

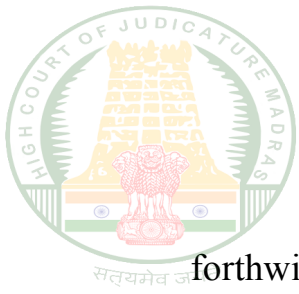
1.The State rep. by its,
The Additional Chief Secretary to Government,
Home (Prison-IV) Department, Secretariat,
Fort St. George, Chennai – 600 009.

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 Salem,
Hasthampatty, Salem – 7.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records in impugned order in G.O.(D) No.568 dated 05.05.2025 passed by the 1st respondent and quash the same and direct the respondents to release



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forthwith the petitioner's husband/convict prisoner namely Mr.Saravanan S/o.Sundaram (CT No.7584, PID No.34077).

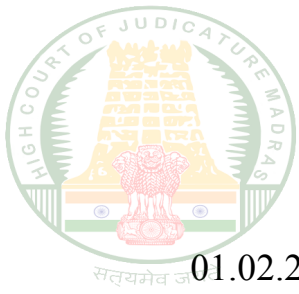
For Petitioner : Mr.M.Mohamed Saifulla

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

ORDER

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

The petitioner herein is the wife of the convict prisoner, who has been sentenced to life imprisonment for the offence under Section 302 IPC, with concurrent sentences of 1 year rigorous imprisonment each for the offences under Section 148 IPC and Section 3 of Explosive Substances Act, among other offences. Since the convict prisoner had completed more than 14 years of imprisonment, the petitioner sought for premature release of her husband, as per G.O.(Ms).No.64, Home (Prison-IV) Department, dated 01.02.2018. Her request came to be rejected through the impugned Government Order dated 05.05.2025 passed in G.O.(D).No.568, Home (Prison-IV) Department, predominantly on the ground that since he was convicted under Explosive Substances Act, he was ineligible for consideration, as per paragraph 5 (II)(3) of G.O.(Ms).No.64, dated



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01.02.2018, as on the crucial date of consideration. The aforesaid impugned Government Order is under challenge in the present Writ Petition.

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2. Admittedly, the convict prisoner has already undergone 1 year of sentence imposed by the Trial Court for the offence under Section 3 of Explosive Substances Act, which is included in the 22 years of total imprisonment undergone by him. The first reason assigned by the Government for treating the prisoner as ineligible for consideration, in view of his conviction under Section 3 of Explosive Substances Act, would be impermissible, in view of the law laid down by the Hon'ble Supreme Court in the case of '*State of Tamil Nadu Vs. P.Veera Bhaarithi*' reported in '*2019 (18) SCC 71*', wherein the three Judges Bench of the Hon'ble Supreme Court had taken into consideration the life convict prisoner who had already undergone the sentence for much lesser offence and had extended benefit of premature release by overruling the objection of the Government. The relevant portion of the judgment in *P.Veerabhaarithi's case (supra)*, which incidentally arose from the judgment of the Division Bench of the Madras High Court, reads as follows:-

..... “7. In other words, the argument on behalf of the



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appellants is that if a person is to be convicted and sentenced under an ineligible Section/ineligible offence he would not be entitled to the benefit of early/premature release under the Prison Rules.

8. The operation of the Rules in the manner as suggested on behalf of the appellants would result in a highly incongruous situation which the rule making authority could not have been understood to have contemplated or envisaged. Higher offences involving sentence of imprisonment for life or even death sentence commuted to life imprisonment, if not coupled with convictions under the ineligible section(s), would entitle a convict to consideration of his case for early release. But, if a lifer is to be convicted for a much lesser offence, say, offences under Section 224, 498A IPC, etc. and sentenced to small periods of imprisonment, notwithstanding the fact that he had completed more than 10 years of custody, he would still not be eligible for early release. Such a situation, in our considered view, cannot be allowed to prevail by understanding the operation of the Rules in the manner suggested on behalf of the appellants.

9. The letter/Memo No.14189/W.1/1989 dated 4th November, 1989 of the Inspector General of Prisons, contents of which have been stated above, is a



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pointer in the above direction and indicates the manner in which the prison authority had understood the provisions of the Rules.

10. Shri Giri's response in the matter is that the view of the Inspector General of Prisons does not reflect the view of the State and the said view was acted upon in few isolated cases, details of which have been given. The said facts do not detract from the position that the view expressed in the letter/memo issued by the Inspector General of Prisons coupled with the view adopted by the High Court presents a more reasonable understanding of the provisions of the Rules which contemplate grant of early/premature release if the contingencies contemplated by the Rules do occur.

11. For the reasons indicated above, we do not consider the present to be a fit case for interference with the view taken by the High Court which view, according to us, ought to be affirmed. We order accordingly.....”

3. As held above, since the life convict has already undergone the sentence for the lesser offence, he would be entitled for the benefits of the liberal construction given by the Hon'ble Supreme Court.



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4. For the foregoing reasons, the impugned order in G.O.(D).No.568, Home (Prison-IV) Department, dated 05.05.2025, is hereby quashed. Consequently, the respondents herein shall forthwith release the petitioner's husband/convict prisoner, namely Saravanan S/o.Sundaram, aged about 37 years, Convict No.7584, PID No.34077, now confined in Central Prison, Salem District, prematurely, in any event, within a period of two (2) days from the date of receipt of a copy of this order.

5. With the above directions, the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

[M.S.R, J.] [V.L.N, J.]
23.07.2025

Index:Yes/No
Neutral Citation:Yes/No
Speaking order/Non-speaking order
hvk

Note: Issue Order Copy on 28.07.2025



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To

1.The Additional Chief 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,
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4.The Public Prosecutor,
High Court, Madras.



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and
V.LAKSHMINARAYANAN, J.

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