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W.P.No.22471 of 2024

W.P.No.22471 of 2024

[Order of the Court was made by **M.S.RAMESH, J.**]

Today, this matter is listed under the caption “for being spoken to”.

2. On consideration of the submission made by the learned Additional Public Prosecutor, paragraph 7 of the earlier order of this Court dated 17.02.2025 passed in W.P.No.22471 of 2024, shall be deleted and stand substituted as follows:-

"7. For all the foregoing reasons, the impugned G.O.(D).No.604, Home (Prison-IV) Department, dated 20.05.2024, is hereby quashed. Consequently, the respondents herein shall forthwith release the petitioner namely P.Vasanth Kumar, S/o.Parameshwaran, aged about 37 years, Convict No.2452, now confined in Central Prison Puzhal-I, Thiruvallur District, prematurely under G.O.Ms.No.488, Home (Pri-IV) Department, dated 15.11.2021, in any event, within a period of four (4) weeks from the date of receipt of a copy of this order"



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M.S.RAMESH, J.

and

N.SENTHILKUMAR, J.

Anu

3. All other findings and observations made in the earlier order dated 17.02.2025, shall remain intact.

[M.S.R., J] [N.S., J]

25.02.2025

(2/2)

(Note: Registry is directed to carry out the above corrections and issue revised order copy to those concerned)

Anu

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.22471 of 2024
and W.M.P.No.28065 of 2024

Mr.P.Vasantha Kumar

... Petitioner

Vs.

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

2.The Director General of Prison,
Office of Director General of Prison,
No.01, Gandhi Irwin Road, CMDA Building,
Chennai – 600 008.

3.The Superintendent of Prison,
Office of the Superintendent of Prison,
Central Prison at Puzhal – I,
Thiruvallur District – 600 066.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining with an impugned order in G.O.(D) No.604 dated 20.05.2024 passed by the 1st respondent and quash the same and consequently direct the respondents to prematurely release the petitioner/convict prisoner namely Mr.P.Vasanth Kumar, S/o.Parameshwaran (CT No.2452), aged about 37 years forthwith.

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.*)

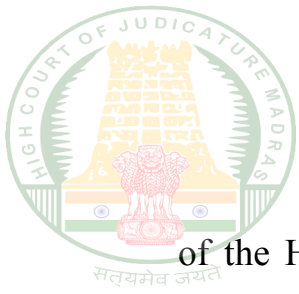
The petitioner herein is the convict, who has been sentenced to life imprisonment for the offences under Section 302 IPC, with a concurrent sentence of 7 years of rigorous imprisonment for the offence under Section 392 r/w. 397 IPC, among other offences. Since he had completed more than 14 years of imprisonment, he sought for premature release under G.O.Ms.No.488, Home (Pri-IV) Department, dated 15.11.2021, as well as other similar Government Orders. His request for premature release was



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rejected through the impugned Government Order dated 20.05.2024 passed in G.O.(D).No.604, Home (Prison-IV) Department, predominantly on the ground that since he was also convicted for the offence under Section 392 r/w. 397 of IPC, he was ineligible for consideration, as per paragraph 2(A)(ii) of G.O.Ms.No.508, Home (Prison-IV) Department, dated 18.11.2021. The other reason assigned for rejection of the petitioner's request for premature release is that he had not completed 14 years of sentence as on 15.09.2023 and hence, he is not eligible for the benefit of G.O.Ms.No.430, Home (Prison-IV) Department, dated 11.08.2023 and also for premature release under the Advisory Board Scheme. The aforesaid impugned Government Order is under challenge in the present Writ Petition.

2. Admittedly, the petitioner has already undergone 7 years of sentence imposed by the Trial Court for the offence under Section 392 r/w. 397 of IPC. The first reason assigned by the Government for treating the prisoner as ineligible for consideration, in view of his conviction under Section 392 r/w. 397 of IPC, 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



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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 portions of the judgment in ***P.Veerabhaarathi'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 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



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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 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.....”



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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.

4. We deem it appropriate to refer here that though the Hon'ble Supreme Court had dealt with cases where the life convicts have undergone the sentence for the lesser offences and were held to be eligible for premature release, the dictum in *P.Veerabhaarathi's case (supra)* has been disregarded by the Government when G.O.Ms.No.488, dated 15.11.2021 came to be passed.

5. Clause 2(A)(ii) of G.O.Ms.No.488, dated 15.11.2021, prescribes certain considerations to declare a life convict prisoner as ineligible for premature release, in respect of certain lesser offences. Apparently, these disqualifications are not in conformity with the judgment of the Hon'ble Supreme Court. This is not an isolated case where this Court is confronted with the Government Orders rejecting the claim of the life convict prisoners for premature release by quoting paragraph 2(A)(ii) of G.O.Ms.No.488, dated

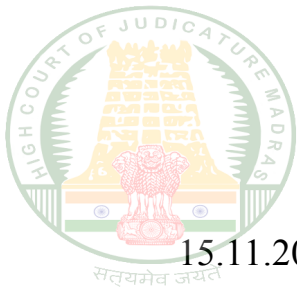


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15.11.2021. It is high time that the Government revisits disqualification clause in G.O.Ms.No.488, dated 15.11.2021, by taking into account the dictum in ***P.Veerabhaarathi's case (supra)***.

6. The other reason cited in the rejection order is that the life convict prisoner has not completed 14 years of imprisonment as on 15.09.2023. However, this condition has now become redundant, since this Court has now found that the petitioner would be eligible to claim benefit of premature release under G.O.Ms.No.488, dated 15.11.2021 itself and therefore, the alleged disqualification of his entitlement either under G.O.Ms.No.430, dated 11.08.2023 or under the Advisory Board Scheme, need not be resorted to, when he is otherwise eligible.

7. For all the foregoing reasons, the impugned G.O.(D).No.604, Home (Prison-IV) Department, dated 20.05.2024, is hereby quashed. Consequently, the respondents herein shall forthwith release the petitioner namely P.Vasanth Kumar, S/o.Parameshwaran, aged about 37 years, Convict No.2452, now confined in Central Prison Puzhal-I, Thiruvallur District, prematurely under G.O.Ms.No.488, Home (Pri-IV) Department, dated



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15.11.2021, in any event, within a period of two (2) days from the date of receipt of a copy of this order.

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

[M.S.R, J.]

[N.S, J.]

17.02.2025

Index: Yes/No

Speaking order/Non-speaking order

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Note: Issue Order Copy on 21.02.2025.



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To

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

2.The Director General of Prison,
Office of Director General of Prison,
No.01, Gandhi Irwin Road, CMDA Building,
Chennai – 600 008.

3.The Superintendent of Prison,
Office of the Superintendent of Prison,
Central Prison at Puzhal – I,
Thiruvallur District – 600 066.

4.The Public Prosecutor,
High Court, Madras.



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

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