



W.P.(MD)No.6179 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.04.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

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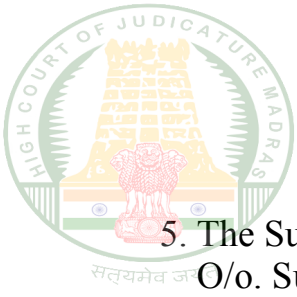
Mehar Nisha

... Petitioner

-Vs-

1. The Union of India represented by the
Secretary to the Government,
Ministry of Home Affaris,
Government of India,
North Block,
New Delhi - 110 001.
2. The Principal Secretary to Government,
O/o. the Principal Secretary to the Government,
Home (Prison IV) Department,
Secretariat, Saint George Fort,
Chennai.
3. The Director General of Prison,
O/o. the Director General of Prison,
Whannels Road, Egmore,
Chennai.
4. The Superintendent of Central Prison,
O/o. Superintendent of Prison,
Puzhal Central Prison,
Chennai.

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5. The Superintendent of Central Prison,
O/o. Superintendent of Prison,
Madurai Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a *Writ of Certiorarified Mandamus*, to call for the records pertaining to the impugned letter in V-17011/3/2018-PR dated 22.05.2024 passed by the respondent No.1 and quash the same as illegal and consequently direct the respondents to adapt the sentence of Sulthan Rafiyudeen who is the husband of the petitioner, as per Indian Law and subsequently release the petitioner's husband prematurely.

For Petitioner : M/s.SMA. Jinnah

For Respondents : M/s.Govindarajan,
Deputy Solicitor General of India for R-1

Mr.S.Ravi,
Additional Public Prosecutor, for R-2 to R-5

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

This Writ Petition is filed by the wife of the convict who was arrested by the Sri Lankan Police, for offence of possessing drug. This Writ Petition is filed by the wife of the convict who was arrested by the Sri Lankan Police, for offence

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of possessing drug. He was sentenced to undergo life imprisonment by the Sri Lankan Government, vide Judgment dated 01.03.2016. After nearly five years of incarceration, she filed a writ petition before this Court seeking repatriation from Sri Lankan prison to Indian prison, as per the Repatriation of Prisoners Act, 2003. This Court after considering the facts of the case, directed the Union of India to consider the representation. Accordingly, after due consultation with the Government of Sri Lanka, the convict was transferred to Indian Prison in terms of the Repatriation of Prisoners Act. The convict is presently in Central Prison, Madurai.

2. We heard Counsels on either side and perused the material documents available on record.

3. This Writ Petition is filed seeking *Writ of Certiorarified Mandamus*, challenging the communication of the Government of India, dated 22.05.2024, rejecting the request for premature release citing concurrence of the Government of Sri Lanka, [the transferring State] is required for any modification of sentence or to adopt the sentence as per Indian Law.

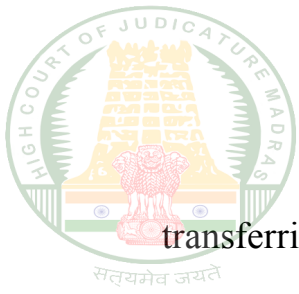


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4. In the said communication, it has also been informed to the writ petitioner that the concurrence of the transferring State has already been sought, and an appropriate decision will be taken by the Government of India upon receipt of consent or otherwise from the Sri Lankan Government.

5. The Learned Counsel appearing for the Petitioner states that the husband of the petitioner is suffering from advanced stage of cancer and for proper medical treatment premature release is necessary.

6. The Learned Deputy Solicitor General of India appearing for the Central Government submitted that the representation of the petitioner for premature release of her husband been duly considered by the Government of India, as per the provisions of Repatriation of Prisoners Act, 2003. Since the offence was committed in a foreign country and the petitioner's husband was convicted and sentenced to life imprisonment for involvement in narcotic drug trafficking by Sri Lankan Court, subsequently he was transferred to Indian prison under the Repatriation of Prisoners Act, 2003, on the condition that the sentence imposed will be carried in the Indian soil. This is in terms of the Act, as well as bilateral treaty between Democratic Socialist Republic of Sri Lanka and the Government of India. The request for premature release was placed before the



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transferring State i.e., Sri Lankan Government and have refused to interfere the sentence imposed and the same was communicated to the petitioner. The Learned Counsel appearing for the Petitioner states that the said order was not communicated to the petitioner.

7. Be that as it may, since the representation on behalf of the life convict been considered and decision taken by the Union of India, as per terms of the Repatriation of Prisoners Act, 2003, and the bilateral treaty between two Countries entered on 01.06.2010, nothing survives in this Writ Petition.

8. Accordingly, this Writ Petition stands dismissed.

[G.J., J.] & [R.P., J.]

01.04.2025

NCC : Yes / No

Index : Yes / No

KSA



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