

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Criminal) No(s). 485/2021

RAJAN

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

(IA No. 198538/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 24-02-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. K. Paari Vendhan, AOR
Ms. Ishita Chowdhury, Adv.
Mr. S. Prabu Ramasubramanian, Adv.
Mr. Raghunatha Sethupathy B, Adv.
Mr. Bharathimohan M, Adv.
Ms. Priya R, Adv.
Mr. S. Sabari Bala Pandian, Adv.
Mr. Shreeharee Jaganmohan, Adv.
Mr. Avinash Kumar, Adv.

For Respondent(s) Mr. V. Giri, Sr. Adv.
Dr. Joseph Aristotle S., AOR
Mr. Shobhit Dwivedi, Adv.

Mr. Sanjay Jain, A.S.G.
Mrs. Swati Ghildiyal, Adv.
Mr. Anukalp Jain, Adv.
Mr. Adit Khorana, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Heard Mr. Gopal Sankaranarayanan, the learned senior counsel appearing for the petitioner, Mr. V.Giri,

the learned senior counsel representing the State of Tamil Nadu and Mr. Sanjay Jain, the learned Additional Solicitor General assisted by Ms. Swati Ghildiyal, the learned counsel for Union of India.

2. The petitioner has been convicted to suffer life imprisonment. As of today, the petitioner has undergone approximately 35 years of incarceration. The case of the petitioner for grant of pre-mature release in terms of Policy dated 1st February, 2018 was considered by the respondent No.1-State and by the impugned order dated 12th February, 2021, the prayer has been rejected on two grounds. The first ground is seriousness of the crime committed by the petitioner and the second ground is that trials of the co-accused were separated and pre-mature release of the petitioner will be a hindrance to the conduct of the fair trials. The challenge in this petition under Article 32 of the Constitution of India, is to the order dated 12th February, 2021.

3. We have perused the earlier orders passed by this Court from time to time. The order dated 25th March, 2022 refers to the affidavit filed by the State Government which records that conduct of the petitioner in jail has been satisfactory. The Court referred to the impugned order dated 12th February, 2021 and recorded that it is essential to ascertain whether the petitioner has been involved in any other crime. On the prayer made by the petitioner, Union of India through the Ministry of

Home affairs was impleaded with a view to ensure that after pre-mature release, the petitioner returns to his home country (Sri Lanka).

4. By order dated 9th May, 2022 this Court directed the Union of India to verify the nationality of the petitioner. On the last date and today, the learned counsel representing the Union of India has made a statement that on verification, it was found that the petitioner is a citizen of Sri Lanka. On the last date, the learned Additional Solicitor General made a statement that travel documents of the petitioner are awaited. A copy of the Note Verbale issued by the Government of Sri Lanka dated 2nd January, 2023 recording that the petitioner is a citizen of Sri Lanka, is taken on record.

5. Learned senior counsel appearing for the original respondents states that in the State of Tamil Nadu, the State government has set up transit camps where foreigners who have over stayed in India and refugees have been accommodated. The learned senior counsel submitted that if a direction is issued to that effect by this Court, the petitioner can be shifted to one such appropriate transit camp, as may be decided by the State Government.

6. From the orders which are passed earlier, it is crystal clear that as and when there is an order releasing the petitioner, he intends to go back to Sri Lanka. If he is shifted to a transit camp, the State

Government can ensure that he does not move out, till he goes back to his own country. Therefore, if the petitioner is shifted to a transit camp, ground (b) of the impugned order dated 12th February, 2021 will not survive. In view of this factual position, even ground (c) will not survive as after pre-mature release, the petitioner will not be staying in India.

7. It is not the case of the State Government or the Union of India that there are any other offences committed by the petitioner. Therefore, considering the overall factual scenario and nationality of the petitioner, the case of the petitioner for pre-mature release will have to be reconsidered by the State Government in the light of the Policy dated 1st February, 2018 or any other relevant Policy which is applicable to the petitioner.

8. We direct the State of Tamil Nadu to reconsider the issue of pre-mature release of the petitioner in the light of what is observed in this order within a maximum period of three weeks from today.

9. In the meanwhile, we direct that the petitioner shall be shifted to appropriate transit camp as may be decided by the State Government. We grant time of one week to the State Government to shift the petitioner to appropriate transit camp.

10. List the matter on 27th March, 2023.

**(ANITA MALHOTRA)
AR-CUM-PS**

**(RAM SUBHAG RAM)
COURT MASTER**