

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-12-2009

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALILNGAM

AND

THE HONOURABLE MR.JUSTICE V.PERIYA KARUPPIAH

HCP No.1804 of 2009

Yerwadi Kasim @ Mohammed Kasim  
@ Syed Meeran @ Abbas ... Petitioner

vs

1.State represented by  
The Inspector of Police  
CB CID, SIT, Chennai 2.  
2.The Superintendent  
Central Prison  
Chennai 66. ... Respondents

Habeas corpus petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents to produce the petitioner namely Yerwadi Kasim @ Mohammed Kasim @ Syed Meeran @ Abbas, S/o Hassan Gani, aged 35 years, now confined in Central Prison, Puzhal, Chennai 66, before this Court and set him at liberty.

For Petitioner : Mr.P.Pugalenth  
For Respondents : Mr.V.R.Balasubramanian  
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.CHOCKALILNGAM, J.)

Invoking the writ jurisdiction of this Court, the petitioner who is facing trial in S.C.No.15 of 2003 on the file of the Special Court for Bomb Blast Cases, Poonamallee, has brought forth this petition for issuance of a writ of habeas corpus.

2.The affidavit in support of the petition and the counter affidavit are perused. The Court heard the learned Counsel for the petitioner and also the learned Additional Public Prosecutor.

3.The learned Counsel for the petitioner would submit that the petitioner was arrested by the first respondent police on 29.5.1998, for the offences under Sec.120-B of IPC read with Sections 5 and 3 of Explosive Substances Act and 25(1)(B)(a) of Arms Act and remanded to judicial custody; that from that time onwards, he is in custody; that on completion of investigation, a charge sheet was also filed, and the case was committed to Court of Session; that now the trial is pending before the Special Court for Bomb Blast Cases, Poonamallee,

in S.No.15 of 2003; that it is pertinent to note that he is in custody for more than 10 years; that even assuming that he is found guilty by the trial Court, the maximum punishment to be imposed for the said offence is 7 years Rigorous Imprisonment; that he had already undergone the maximum sentence stipulated, and under the circumstances, he has got to be set at liberty.

4.In answer to the above contentions, the learned Additional Public Prosecutor would submit that in the said case, charges were framed against the petitioner on 24.1.2008; but, the trial could not be commenced since the petitioner disown his counsel; that the case was kept pending because of the petitioner who had not engaged his counsel to defend his case for a long time; that apart from this case, he is also facing trial in another case in S.C.No.2 of 2001 on the file of the Special Court for Bomb Blast Cases, Poonamallee; that the trial in S.C.No.15/2003 is in part heard stage; that some of the witnesses have been examined; that at this juncture, it is pertinent to note that he is convicted and sentenced to under life imprisonment in connection with KK Nagar Crime No.1739 of 1997; that apart from that, he is also involved in number of criminal cases; that the nature and gravity of the offence committed by the petitioner have to be taken into consideration, and hence the petition was to be dismissed.

5.Admittedly, the petitioner is facing trial in S.C.No.15 of 2003 on the file of the Special Court for Bomb Blast Cases, Poonamallee. A few witnesses, according to the State, have been examined. Thus, the trial is part heard. It is also an admitted fact that he is in judicial custody for more than 10 years i.e., from the time of his arrest in the instant crime in the year 1998. It remains to be stated that even if the trial Court comes to the conclusion that he is guilty of the offence, he might have served the sentence taking into consideration that he is in custody for more than 10 years in connection with this case. Now, at this juncture, the only question that would arise for consideration is whether the petitioner can be released on bail pending disposal of the said Sessions Case. It is brought to the notice of the Court that he is undergoing life imprisonment in another case. However, this Court is of the view that the petitioner can be permitted to make an application for bail before the trial Court as far as this case is concerned. Accordingly, permission is granted, and the trial Court is also directed to consider the application of the petitioner for bail on the very day as and when made. But, at the same time, there is no impediment for the trial Court to proceed with the trial, complete the same and adumbrate justice in accordance with law.

6.In the result, this habeas corpus petition is, accordingly, disposed of.

Sd/  
Asst.Registrar

/true copy/

nsv

To:

1.The Judge,  
Special Court for Bomb Blast Cases,  
Poonamalee

2.The Inspector of Police  
CB CID, SIT, Chennai 2.

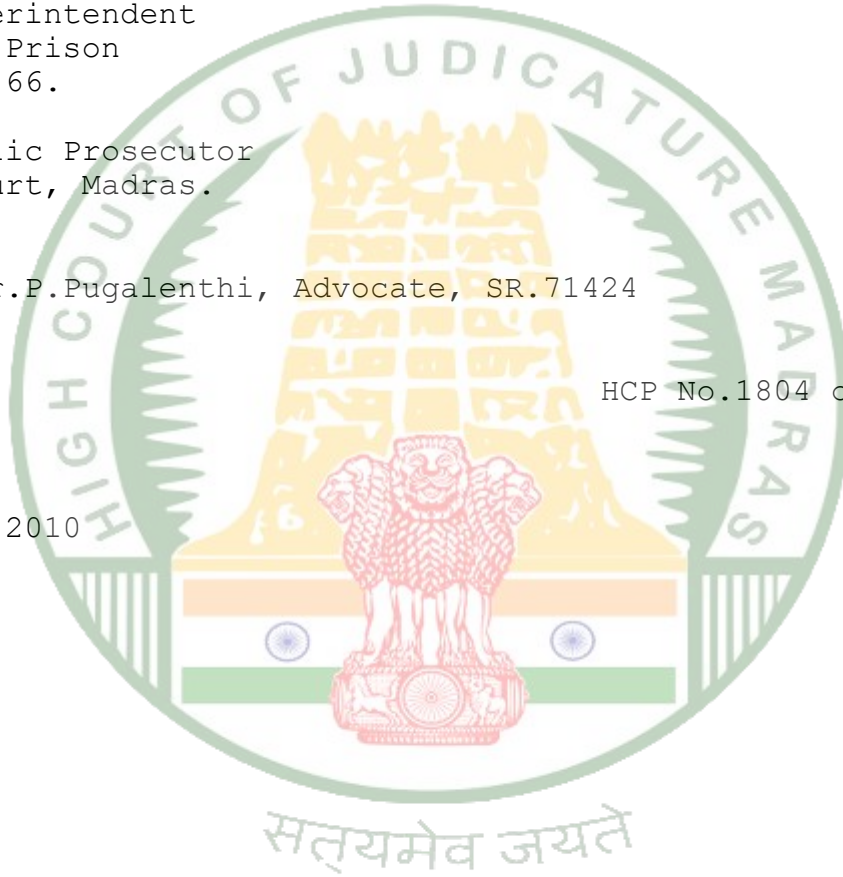
3.The Superintendent  
Central Prison  
Chennai 66.

4.The Public Prosecutor  
High Court, Madras.

1 cc To Mr.P.Pugalenth, Advocate, SR.71424

HCP No.1804 of 2009

RSY(CO)  
sra 08.01.2010



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