



IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO. 398/2022

KARTHIKA S

PETITIONER(S)

VERSUS

STATE OF KERALA & ORS.

RESPONDENT(S)

O R D E R

We have heard learned counsel for the petitioner and learned counsel appearing for the respondent-state.

It is contended that the petitioner having undergone 19 years and 7 months of actual incarceration without remission and 26 & half years with remission and despite the fact that his name finds place in the recommendation made by the committee for release, he has not been released merely on the ground that he is unable to pay the fine imposed upon him.

To support the contention reliance is placed upon judgment dated 03.12.2021 passed by a co-ordinate Bench of this Court in Writ Petition (Criminal) No. 270 of 2021 "*Aswathy Vinod & Anr. Vs.*

The State of Kerala & Ors." and judgment and order dated 19.10.2022 passed by another co-ordinate bench in Writ Petition (Criminal) No. 269 of 2022 *"Usha Chandran Vs. State of Kerala and Ors."*

In the case of Aswathy Vinod & Anr.(Supra), in the identical facts and circumstances, this Court observed as under:-

"As regards convict Manikantan @ Kochani, the Superintendent of Open Jail and Correctional Home, Nettukaltheri vide letter dated 16.11.2021 has asked him to deposit the fine amount of Rs.8,30,000/- (Rupees Eight Lakh Thirty Thousand Only) as ordered by the First Additional Sessions Judge, Kollam.

It cannot be disputed that the sentence of simple imprisonment of 8 years and 4 months in the case of default, as awarded in terms of the stated order passed by the First Additional Sessions Judge, Kollam was to run concurrently. That period having already been undergone by said convict Manikantan @ Kochani, the order of release dated 06.11.2021 issued by the Additional Chief Secretary must come into play with immediate effect and he should be released forthwith doing anything more."

In the present case also the sentence awarded to the accused-petitioner were to run concurrently. The facts being identical, we find no reason to take a different view from the one taken by the two co-

ordinate benches referred to above.

Thus in peculiar facts and circumstances of the case, we hereby allow the petition and direct the authorities to release the convict C.No. 3235, Thampi, father of the petitioner, prematurely forthwith.

The writ petition stands allowed in the above terms. No order as to costs.

.....J.
(KRISHNA MURARI)

.....J.
(AHSANUDDIN AMANULLAH)

NEW DELHI
13th FEBRUARY, 2023

ITEM NO.39

COURT NO.13

SECTION X

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). 398/2022

KARTHIKA S

Petitioner(s)

VERSUS

THE STATE OF KERALA & ORS.

Respondent(s)

Date : 13-02-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. Sirajudeen. A, Sr. Adv.
 Mr. Subash Chandran, Adv.
 Mr. Sayooj Mohandas. M, Adv.
 Mrs. Kavitha. Kt, Adv.
 M/S. Subash Chandran&Kavitha Law Associates, AOR

For Respondent(s) Mr. Harshad V. Hameed, AOR
 Mr. Dileep Poolakkot, Adv.
 Mr. Subhash Chandran K.r., Adv.
 Mrs. Ashly Harshad, Adv.

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

We allow the writ petition and we direct the authorities to release the convict C.No. 3235, Thampi, father of the petitioner, prematurely forthwith, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SONIA GULATI)
 SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
 COURT MASTER (NSH)

(Signed order is placed on the file)