



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:12.11.2025

+ **W.P.(CRL) 1976/2025 & CRL.M.A. 22525/2025**

KAILASH WATI Petitioner

versus

STATE OF DELHI Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Attin Shankar Rastogi, Adv.

For the Respondent : Mr. Amol Sinha, ASC (Crl.) for the State along with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Nitish Dhawan, Ms. Sanskriti Nimbekar, Mr. Vijay Misra & Mr. Abhishek Mahajan, Advs.
SI Dharmendra Sharma, PS Patel Nagar.
Mr. Vivek Gurnani, Amicus Curiae along with Mr. Agni Sen, Advs.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed under Article 226 of the Constitution of India seeking grant/extension of parole for a period of twelve months on account of the medical condition of the petitioner.

2. Briefly stated, the petitioner along with her husband and son was convicted for the offence under Sections 498A/304B of the Indian Penal Code, 1860 in FIR No. 359/1987. By order on sentence dated



15.02.2000, the convicts were sentenced to undergo rigorous imprisonment for a period of seven years.

3. By judgment dated 16.12.2016, the appeal against the judgment of conviction was dismissed by this Court. Further, by order dated 20.03.2017, the SLP preferred by the convicts before the Hon'ble Apex Court was also dismissed.

4. The petitioner's son is stated to have expired on 27.03.2015. The petitioner and her husband surrendered on 15.02.2017. Thereafter, the petitioner's husband also died in jail due to a cardiac arrest on 20.06.2017.

5. It is stated that the petitioner, on account of her age and weakness, fell on the floor in the Jail premises on 16.08.2017 as a result of which the petitioner was severely injured. Thereafter, the petitioner was taken to Deen Dayal Upadhyay Hospital where she underwent surgery for her fractured thighs. On 12.10.2017, this Court in W.P. (CRL) 2586/2017 granted parole to the petitioner for a period of one month considering her age and her precarious medical condition. On that occasion, this Court noted that the petitioner had suffered incarceration for a period of 3 years 11 months and 25 days as on 09.10.2017 out of the total sentence of 07 years.

6. Shortly after her release, the petitioner complained of unbearable pain for which she was taken to Ganga Ram Hospital and was re-operated on 29.10.2017 to repair her fractured hip/thigh. It was



advised that the previous surgery that the petitioner underwent post her fracture was flawed and ineffective. The petitioner was discharged from the hospital on 06.11.2017 and was advised strict bed rest for a period of 03 months. Considering the medical condition of the petitioner, this Court vide *order* dated 01.12.2017 in W.P. (CRL) 3226/2017 extended the parole granted to the petitioner for a further period of three months. Thereafter, by multiple orders passed by this Court, the petitioner has constantly been on parole on account of her medical condition.

7. The Status Report indicates that the address of the petitioner was visited, and upon verification, it was found that the petitioner is bedridden and is not able to walk or perform her day-to-day activities without the help of an attendant.

8. As per the Jail record, the petitioner has spent 04 years and 07 days in custody out of the total sentence of 07 years.

9. The petitioner has now approached this Court seeking extension of parole for a further period of 12 months on account of her ailing health conditions.

10. The learned counsel for the petitioner submitted that the petitioner, on account of her declining health condition is not in a position to surrender. He submitted that the petitioner is 81 years old and is completely bedridden. It has consequently been prayed that the



parole granted to the petitioner be further extended for a period of 12 months.

11. The learned Additional Standing counsel for the State submitted that in accordance with Rule 1246A of the Delhi Prison Rules, 2018 where any convict above the age of 70 years is incapacitated and unable to perform their daily tasks, such convict can be considered for remittance of the remaining sentence. He submitted that for the said consideration, the State has to constitute a Medical Board to evaluate the health status of the convict and that report has to be placed before the Evaluation Committee for its recommendation to the Government.

12. He submitted that considering the medical condition of the petitioner and the fact that she is above 70 years, the petitioner may be entitled for pre-mature release in terms of Rule 1246A of the Delhi Prison Rules, 2018. He consequently submitted that in order to explore the feasibility of pre-mature release, a period of 04 weeks be granted to the Prison Department.

13. By order dated 04.08.2025, Mr. Vivek Gurnani, Advocate was appointed as an *amicus curiae* to assist the Court in regard to the recourse to be adopted in the present case. The learned *amicus curiae* has highlighted four approaches that may be resorted to by the Court in the present case. They are as follows:

13.1. *First*, he submitted that the petitioner on account of her age and precarious medical condition is entitled to be considered for premature



release as an incapacitated convict in terms of Rule 1246A of the Delhi Prison Rules, 2018. He submitted that Rule 1246A was added under Chapter XX of the Delhi Prison Rules, 2018 titled “*Premature Release*” and is a beneficial provision aimed at addressing the special needs of the elderly and medically incapacitated convicts. He submitted that the petitioner is approximately 81 years old and consequently squarely falls within the age criterion of Rule 1246A of the Delhi Prison Rules, 2018.

13.2. He submitted that the petitioner has also served more than 50% of her actual sentence thereby satisfying the minimum sentence requirement for consideration of premature release. He consequently suggested that the petitioner be recommended for evaluation in terms in terms of Rule 1246A of the Delhi Prison Rules, 2018 by the competent authorities for premature release.

13.3. *Second*, he submitted that a plea of clemency has been filed on behalf of the petitioner and the same is pending consideration since the year 2018. He submitted that on 06.12.2018, the Hon’ble Secretary (Home), Govt. of NCT of Delhi forwarded the mercy plea of the petitioner to the Ministry of Home Affairs, Government of India along with a recommendation of the Hon’ble Lt. Governor of Delhi. He submitted that while the nature of the recommendation is unknown, the said mercy plea appears to be pending with the Ministry of Home Affairs for the consideration of the Hon’ble President of India under Article 72 of the Constitution of India. He submitted that the plea for



pardon has been pending for almost last 7 years. He submitted that the inordinate delay in exercise of powers of pardon not attributable to the prisoner is amenable to judicial review in terms of the judgment of the Hon'ble Apex Court in ***A.G. Perarivalan vs. State : (2023) 8 SCC 257***. He submitted that in the said case, the Hon'ble Apex Court in exercise of the power under Article 142 of the Constitution of India had released the prisoner therein considering the prolonged period of incarceration, his health conditions and the pendency of the plea of clemency of the petitioner.

13.4. He submitted that since the delay in considering the pardon of the petitioner is susceptible to judicial review, this Court may either request the Ministry of Home Affairs to consider the pardon plea of the petitioner with urgency or call upon the Ministry of Home Affairs to communicate the outcome of such plea of pardon.

13.5. *Third*, he submitted that from the letter dated 06.12.2018, it appears that the Hon'ble Lt. Governor of Delhi while forwarding the clemency plea on behalf of the petitioner to the Ministry of Home Affairs had also forwarded a recommendation. He submitted that while the contents of the recommendation are not on record, should the recommendation be favourable to the petitioner, in such a scenario, the decision of the Hon'ble Lt. Governor of Delhi would itself suffice for grant of pardon to the petitioner in terms of Article 161 of the Constitution of India. He submitted that in such circumstances, the



need for the Hon'ble President of India to exercise the powers of clemency under Article 72 of the Constitution of India would not arise.

13.6. He consequently submitted that this Court may call for the records of the recommendation made by the Hon'ble Lt. Governor of Delhi to examine the issue as to whether the petitioner's case requires the exercise of powers under Article 72 of the Constitution of India or the recommendation of the Hon'ble Lt. Governor of Delhi in that regard can be acted upon in terms of Article 161 of the Constitution of India.

13.7. *Fourth*, he submitted that the petitioner, in view of her medical condition, be allowed to serve the confinement at home under the care of her next of kin. In support of his contention, the learned *amicus curiae* placed reliance on the decision of the Hon'ble High Court at Calcutta in ***The Court in its own motion: In re: Overcrowding in prisons : WPA 5440 of 2020*** wherein the Hon'ble Court had observed that in extremely special and exceptional circumstances, subject to the approval by the competent judicial authority and the State Executive, a convict facing imminent death may be allowed to serve their confinement at home under the care of their next of kin and had also directed that such measures for terminally ill prisoners be implemented.

13.8. He submitted that the Hon'ble High Court of Madras in ***M. Rajeshwari vs. Additional Director General of Police & Ors : 2021***



SCC OnLine Mad 420 while placing reliance on the decision of the *Hon'ble High Court of Calcutta in The Court in its own motion: In re: Overcrowding in prisons (supra)* had allowed the convict to be confined in her home in view of her health condition, and had directed the authorities to pass orders under Rules 632 and 633 of the Tamil Nadu Prison Manual, 1983 within a period of three months for the release of the convict. He consequently suggested that till such time as the plea of clemency or premature release of the petitioner is decided, this Court in exercise of powers under Article 226 of the Constitution of India, may direct the detention of the petitioner in her home to subserve the ends of justice.

Analysis

14. The petitioner is essentially seeking extension of parole on account of her deteriorating health. At the outset, it is pertinent to note that the petitioner was enlarged on parole for the first time on 12.10.2017 after she fell in the prison and fractured her hip/ thigh, and her parole has been extended from time to time on multiple occasions due to her age as well as her precarious medical condition. By order dated 09.07.2024 in W.P. (CRL) 1950/2024, this Court had extended the parole for a further period of 12 months by considering the fact that the petitioner being 80 years old is bedridden and is unable to walk on her own. It is in such circumstances that the petitioner continues to remain enlarged on parole after almost eight years of the liberty first being granted to her. The petitioner has now approached



this Court seeking extension of parole for a further period of 12 months on account of her medical condition.

15. In that regard, before venturing into the exercise of determining the adequate relief for the petitioner given her precarious medical condition, this Court first deems it apposite to examine whether the extension of parole is permissible within the contours of the Delhi Prison Rules, 2018.

16. As per Rule 1198 of the Delhi Prison Rules, 2018, the term ‘parole’ denotes a temporary release awarded to a prisoner for a short period so that he may maintain societal relations with his family and community in order to fulfil his familial and societal obligations. At the same time, it is pertinent to mention that parole is not a legal right, it is a privilege conferred on a prisoner to enable them to maintain a regular contact with the world and keep up with the latest developments in society. The same is however not a concession towards the sentence that is awarded to a prisoner. In the case of **Poonam Lata v. M.L. Wadhawan : (1987) 3 SCC 347**, the Hon’ble Apex Court had underscored the genesis of the concept of parole and the objective behind the same. It was noted that parole originally arose as a concept meant for release of prisoners of war on a promise to return, but was later inculcated in penal systems as an act of grace. The relevant portion of the judgment is as under:

“8...The grant of parole is essentially an executive function and instances of release of detenus on parole were literally unknown



until this Court and some of the High Courts in India in recent years made orders of release on parole on humanitarian considerations. Historically “parole” is a concept known to military law and denotes release of a prisoner of war on promise to return. Parole has become an integral part of the English and American systems of criminal justice intertwined with the evolution of changing attitudes of the society towards crime and criminals. As a consequence of the introduction of parole into the penal system, all fixed-term sentences of imprisonment of above 18 months are subject to release on licence, that is, parole after a third of the period of sentence has been served. In those countries, parole is taken as an act of grace and not as a matter of right and the convict prisoner may be released on condition that he abides by the promise. It is a provisional release from confinement but is deemed to be a part of the imprisonment. **Release on parole is a wing of the reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen.** Parole is thus a grant of partial liberty or lessening of restrictions to a convict prisoner, but release on parole does not change the status of the prisoner. Rules are framed providing supervision by parole authorities of the convicts released on parole and in case of failure to perform the promise, the convict released on parole is directed to surrender to custody. (See Oxford Companion to Law, edited by Walker, 1980 edn., p. 931; Black's Law Dictionary, 5th edn., p. 1006; Jowitt's Dictionary of English Law, 2nd edn., Vol. 2, p. 1320; Kenny's Outlines of Criminal Law, 17th edn., pp. 574-76; English Sentencing System by Sir Rupert Cross at pp. 31-34, 87 et. seq.; American Jurisprudence, 2nd edn. Vol. 59, pp. 53-61; Corpus Juris Secundum, Vol. 67; Probation and Parole, Legal and Social Dimensions by Louis P. Carney.) It follows from these authorities that parole is the release of a very long term prisoner from a penal or correctional institution after he has served a part of his sentence under the continuous custody of the State and under conditions that permit his incarceration in the event of misbehaviour.

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15.... We find it difficult from the observations made by the three Judge Bench in Amritlal Channumal Jain case [Writ Petition Nos. 1342-43, 1345-48 and 1362 of 1982 and 162 of 1983, decided on 10-7-1985] to infer a direction by this Court that the period of parole shall not be added to the period of detention. The words



used “shall be taken into account” are susceptible of an interpretation to the contrary. We find that an order made by a Bench of two Judges of this Court in *Harish Mackijani* case unequivocally laid down that the period of parole cannot be counted towards the period of detention. This accords with the view taken by this Court in a Bench of two Judges in *State of Gujarat v. Adam Kasam Bhaya* [(1981) 4 SCC 216 : 1981 SCC (Cri) 823 : AIR 1981 SC 2005 : (1982) 1 SCR 740] and *State of Gujarat v. Ismail Juma* [(1981) 4 SCC 609 : 1982 SCC (Cri) 1 : AIR 1982 SC 683 : (1982) 1 SCR 1014]...”

(emphasis supplied)

17. In the case of ***Inder Singh v. State (Delhi Admn.) : (1978) 4 SCC 161***, the Hon’ble Apex Court had expounded upon the purpose of parole by emphasising the need to use an approach laden with *karuna* when dealing with the rights of a prisoner. Placing emphasis on the need for a rehabilitative approach, the Hon’ble Apex Court granted parole to the accused therein in the said matter.

18. Having noted thus, it is also pertinent to note that the same does not tantamount to mean that the extension of parole can be *ad infinitum*. Rules 1212 and 1212A of the Delhi Prison Rules, 2018 provide that that a convict can be released on parole for a maximum period of eight weeks in a conviction year, which can only be extended by another eight weeks of parole in emergent situations like—*“threat of epidemic, natural disaster or any other situation or circumstances which warrant immediate easing of population of the inmates in the prison, and, in order to secure the interest of inmates, the prison administration and the society at large”*.



19. The petitioner has invoked the writ jurisdiction in the present case. It is settled law that Courts have no power to legislate and they cannot enlarge the scope of legislation or reframe the same. The power vested in this Court by way of Article 226 of the Constitution of India is not akin to the one entrusted under Article 142 of the Constitution of India, which empowers the Hon'ble Apex Court to do *complete* justice. This Court in exercise of writ jurisdiction cannot rewrite the Rules or fundamentally change the same by extending the liberty beyond the prescribed duration.

20. At the same time, this Court cannot lose sight of the fact that the petitioner is bedridden and she is not in a position to move or surrender. This Court cannot be so inhumane so as to adopt a callous approach which is blind and unfeeling to the plight of an aged woman, who is already suffering from a myriad of ailments. By mere virtue of conviction, a convict is not denuded of their fundamental rights and the punishment cannot be one which defiles the dignity of an inmate. While the petitioner has been convicted of a grave offence, she is still a human being deserving of dignity and it is amply clear that she will not be able to undergo the remainder of her sentence, especially since the prison authorities will be unable to provide her with round the clock assistance as well as suitable amenities required for her condition.

21. In such circumstances, this Court is faced with a conundrum wherein while it can't mindlessly extend the parole of the petitioner



beyond the time as provided as provided in Delhi Prison Rules, 2018, it also cannot direct the petitioner to surrender and undergo her remaining sentence. As noted above, the learned *amicus curiae* has underlined four recourses that may be resorted to by this Court. The same are summarised as follows:

21.1. *Firstly*, it has been suggested that the case of the petitioner may be suggested for evaluation in terms of Rule 1246A of the Delhi Prison Rules, 2018. It is pointed out that the petitioner, considering her age and the fact that she has undergone 50% of her sentence (excluding remission), qualifies as an ‘incapacitated convict’ and may be entitled to premature release in terms of the said rule. It is stated that the aforesaid provision was added by way of amendment in the year 2024 to provide some relief to such convicts who are unable to perform their daily tasks and whose age is 70 years and above.

It is further submitted that the aforesaid Rule is a beneficial provision aimed at addressing the special needs of elderly and medically incapacitated convicts, and a multi-layered review process involving the Evaluation Committee as well as medical board is envisaged thereunder to balance justice and humanitarian concerns. It is mentioned that while the Rule provides for declaration by a medical board, the condition of the petitioner as well as her detailed evaluation by multiple hospitals makes it evident that she suffers from multiple fractures, including a hip fracture requiring replacement surgery, rendering her unable to ambulate without assistance.



It has consequently been suggested that even though no formal application is required for premature release as the State is duty-bound to consider all eligible cases for grant of the same [Ref. ***In Re: Policy Strategy for Grant of Bail 2025 SCC OnLine SC 349***], the petitioner be recommended for evaluation in this respect by the competent authorities considering her peculiar predicament.

21.2. *Secondly*, it has been pointed out that a plea of clemency has been filed on behalf of the petitioner and the same is pending consideration since the year 2018. It is mentioned that on 06.12.2018, the mercy plea of the Petitioner has been forwarded to the Ministry of Home Affairs with a recommendation of the Hon'ble Lt Governor of Delhi, despite which, the petitioner's plea has still been pending for the past 7 years.

It is submitted that although Courts ordinarily do not direct release of prisoners on remission/ pardon as the power for issuing such orders vests solely with the President/ Governor under Articles 72 and 161 of the Constitution of India, however, it cannot be ignored that there is inordinate delay in consideration of the petitioner's case.

It has been recommended that since the delay in considering the pardon of the petitioner is susceptible to judicial review in terms of the judgment of the Hon'ble Apex Court in ***A.G. Perarivalan vs. State (supra)***, this Court may either request the Ministry of Home Affairs to consider the pardon plea of the petitioner with urgency or call upon



the Ministry of Home Affairs to communicate the outcome of such plea of pardon.

21.3. *Thirdly*, it has been pointed out that the Hon'ble Lt. Governor of Delhi while forwarding the clemency plea on behalf of the petitioner to the Ministry of Home Affairs had also forwarded a recommendation. It has further been pointed out that although the nature of recommendation is not known, if the content of the recommendation is favourable to the petitioner, the Hon'ble Lt. Governor of Delhi may exercise his power under Article 161 of the Constitution of India to pardon the remaining sentence of the petitioner.

It is consequently recommended that this Court may call for the records of the recommendation made by the Hon'ble Lt. Governor of Delhi to examine the issue as to whether the petitioner's case requires the exercise of powers under Article 72 of the Constitution of India or the recommendation of the Hon'ble Lt. Governor of Delhi in that regard can be acted upon in terms of Article 161 of the Constitution of India.

21.4. *Fourthly*, it has been suggested that in view of the medical condition of the petitioner, till such time as the premature release or the plea of clemency of the petitioner is decided, the petitioner be allowed to serve the confinement at home under the care of her next of kin. In that regard, reliance has been placed on the judgment of the



Hon'ble High Court of Calcutta in ***The Court in its own motion: In re: Overcrowding in prisons: WPA 5440 of 2020*** and the judgment of the Hon'ble High Court of Madras in ***M. Rajeshwari vs. Additional Director General of Police & Ors : 2021 SCC OnLine Mad 420***.

22. Insofar as the exercise of jurisdiction to consider the pendency of the plea of clemency of the petitioner is concerned, irrespective of the delay, this Court does not consider it apposite to exercise judicial review before the concerned authorities have had the opportunity to examine the case of the petitioner, as the same would amount to usurping the rightful discretion of the executive functionaries to grant such reliefs, especially since the said issue has not been agitated by the petitioner before this Court either. It is also pertinent to note that in the case of ***A.G. Perarivalan vs. State (supra)***, although the aspect of the pendency of the petition under Article 161 of the Constitution was considered, the Hon'ble Apex Court had ultimately granted relief to the appellant therein in exercise of its power under Article 142 of the Constitution. As noted above, the power vested in this Court under Article 226 of the Constitution is not akin to the one enjoyed by the Hon'ble Apex Court under Article 142 of the Constitution.

23. As far as the first recommendation for the case of the petitioner to be considered for premature release in terms of Rule 1246A of the Delhi Prison Rules, 2018 is concerned, the jail authorities have sought for some time before this Court to explore the feasibility of the same.



However, as noted above, the petitioner is bedridden and she is not in a position to move or surrender, which necessitates adoption of an alternative approach which doesn't relegate the petitioner to suffer incarceration till such time as her representation for premature release is considered by the adequate authority.

24. Although the petitioner has essentially sought further extension of parole, considering the statutory limitations on the time period for which parole can be granted to a convict in a particular conviction year, in the opinion of this Court, interests of justice will be met if the petitioner is confined to her home till her case is considered for clemency or premature release in pursuance of the fourth recommendation made by the learned *amicus*.

25. In the case of ***Gautam Navlakha v. NIA : (2022) 13 SCC 542***, the Hon'ble Apex Court had extensively discussed the concept of "House Arrest" in India as well as other countries. It was noted that while house arrest in India has its roots in laws providing for 'preventive detention' (like Section 5 of the National Security Act, 1980), however, in the United States, the same is mostly ordered *after* trial is conducted and an accused is found to be guilty. Even though confinement to home in substitution of imprisonment after conviction is unconventional in India, however, there are certain precedents where Courts have discussed the concept.



26. In the case of ***The Court in its own motion: In re: Overcrowding in prisons: WPA 5440 of 2020***, the Hon'ble High Court of Calcutta had taken note of Circular being No. V-17014/5/2010-PR dated 13.08.2010 addressed by the Ministry of Home Affairs to the Chief Secretary, Principal Secretary (Prisons) / Principal Secretary (Home-in charge of Prisons) of all State Governments and UT Administrations, whereby State Governments and UT administrations were advised to amend legislation/ rules to enable terminally ill patients to receive medical care and die in dignity whilst being surrounded by family instead of in desolate prison environment.

27. It was observed in the said case that as imprisonment has not been defined anywhere and the same connotes to deprivation of liberty to move freely, in exceptional circumstances, a convict who is counting his days in the world, could be handed over to his next of kin for keeping him confined within home, under surveillance of the appropriate State authority and police department.

28. Placing reliance on the aforesaid judgment, the Hon'ble High Court of Madras, in the case of ***M. Rajeshwari vs. Additional Director General of Police & Ors.*** (*supra*), had held as follows:

“26. Even though, Rule 632 and 633 of Tamil Nadu Prison Rule, 1983, gives power only to executive to release the convict, any direction for consideration if given by this Court, it will be a time consuming process, since the file has to move through many officials level. Hence, we are of the considered view that it may not



be proper for this Court to issue a Writ of Mandamus directing the authorities to take measures as provided Rules 632 and 633 at this extreme emergence situation. Even though, the petitioner has sought an order of writ of mandamus for direction to the respondents to grant parole to the convict, for the reasons stated above, we are of the considered opinion that any such direction will also consume time. So, in the facts and circumstance of the case and in the light of the emergent situation we deeming fit to mould the relief and issue the following directions:—

- (i) We direct the respondent to hand over the convict, namely Mrs. Subbulakshmi, (FCP No. 106), wife of Kumarakurubaran, to the petitioner immediately in the presence of Secretary, District Legal Service Authority attached to the Principal District Court, Madurai.*
- (ii) The petitioner shall keep the convict in her home at Door No. 3/67, South Street, Vallaramapuram, Kilavirasigamani, Sankarankovil Taluk, Tenkasi District and the convict is not permitted to move out of her home except for medical treatment.*
- (iii) The jurisdictional police, namely, the Station House Officer, Seranthamaram Police Station, Tenkasi Taluk shall ensure that the convict is not taken out or moving out of her home of the petitioner except for medical treatment.*
- (iv) The Secretary District Legal Service Authority attached to the Principal District Court, Tirunelveli is directed to visit the convict once in 10 days and file a report about the health condition and other facts which may be necessary in the circumstances of the case to the Registry by marking a copy to the Collector of Tirunelveli and Madurai Districts and the jurisdictional Police.*
- (v) The petitioner is directed to execute a bond for a sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) along with two sureties for like sum to the satisfaction of the second respondent herein.*
- (vi) The photographs, duly attested by the second respondent herein, of the convict and the photograph of the petitioner attested by her counsel must be furnished to the following persons.*
 - 1) The Superintendent of Special Prison for Women, Special Prison for Woman, Madurai.*
 - 2) The Secretary District Legal Service Authority, Madurai.*



3) *The Secretary District Legal Service Authority, Tirunelveli.*

4) *Station House Officer, Jurisdictional Police, Sernthamaram Police Station, Tenkasi Taluk.*

27. *In the facts and circumstances of the case, since final orders have to be passed by the Government of Tamil Nadu, as per Rule 632 & 633 of Tamil Nadu Prison Rule, we deem it fit to suo-motu implead the Government of Tamil Nadu and the Inspector General of Prison as the third and fourth respondents.*

28. *Further, the petitioner is directed to give a fresh representation on behalf of the convict to the concerned authorities to enable them to pass orders under Rules 632 & 633 of Tamil Nadu Prison Manual, 1983. After receiving the representation from the petitioner, the authorities shall take into account the health condition of the convict and the observations made in this order at the time of considering the representation of the convict and pass orders within a period of three months from the date of receipt of representation of the petitioner.*

29. *This order will be in force till final orders are passed by the respondent No. 3 as indicated above.”*

29. While this Court does not seek to propose that house arrest needs to be regularised as an alternative for custody, in the absence of any provisions for extended release from custody for infirm and aged patients, the same appears to be a cogent alternative, especially considering that adjudication of mercy pleas as well as assessment of a convict's case for premature release are generally time-consuming endeavours.

30. In view of the above, considering the peculiar situation of the petitioner, this Court considers it apposite to direct that the petitioner be confined in her home under the care of her son—Tilak Raj, who has signed the affidavit in support of the present petition, till such time



when her case is considered for premature release. The petitioner shall furnish a personal bond for a sum of ₹10,000/- with two sureties of the like amount to the satisfaction of the concerned Jail Superintendent. The petitioner shall not be permitted to leave her residence where she is currently residing, except for the purpose of her medical treatment.

31. The concerned authorities are directed to decide the case of the petitioner for premature release expeditiously, preferably within a period of four weeks.

32. Having dealt with the facts of the present case, this Court considers it apposite to take notice of the fact that like the current petitioner, multiple convicts may be forced to suffer the tribulations of legal limbo and left to wait for the consideration of their case for premature release. Such convicts are often required to stay outside beyond the permissible period for reasons that are outside their control. As noted above, as the permissible period of parole can only be up to a maximum of sixteen weeks, it is incumbent on the appropriate authorities to frame rules covering such exigencies or to amend the Delhi Prison Rules, 2018 providing for extension of parole or furlough, as the case may be.

33. In view of the above, this Court considers it appropriate to direct the State Authorities to frame appropriate rules to cater to such situations as in the present case where convicts, who are incapacitated



by virtue of health or age, are not in a position to surrender even after lapse of the period of release on parole or furlough.

34. A copy of this order be sent to the Government of NCT of Delhi to take appropriate action in this regard.

35. This Court appreciates the efforts put in by Mr. Vivek Gurnani, *amicus curiae* in assisting the Court.

36. The Delhi High Court Legal services Committee is directed to pay the fees of the learned *amicus curiae* as per its scheduled rates and rules.

37. The petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

NOVEMBER 12, 2025