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Babu Kumar vs State of Kerala

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Court : Kerala

Decided On : Nov-01-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(Crl.)/1087/2022

Appellant : Babu Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN WEDNESDAY, THE 1ST DAY OF NOVEMBER 2023/10TH KARTHIKA, 1945 WP(CRL.) NO. 1087 OF 2022 PETITIONER/S: BABU KUMAR, AGED 53 YEARS S/O. APPU, PUTHENVEEDU, CHERUVAIKKAL, SREEKARIYAM PO, THIRUVANANTHAPURAM - 691530, CONVICT NO. 3852, WHO IS PRESENTLY LODGED IN THE CENTRAL PRISON AND CORRECTIONAL HOME, THIRUVANANTHAPURAM, PIN - 695012 BY ADV V.VIJITHA RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE HOME SECRETARY, HOME AFFAIRS DEPARTMENT, SECRETARIAT,

THIRUVANANTHAPURAM, PIN - 695001 2 KERALA PRISON AND CORRECTIONAL SERVICES REPRESENTED BY THE DIRECTOR GENERAL OF PRISON AND CORRECTIONAL SERVICES, DEPARTMENT OF PRISON, POOJAPURA, THIRUVANANTHAPURAM, PIN - 695012 3 THE SUPERINTENDENT CENTRAL PRISON AND CORRECTIONAL HOME, POOJAPPURA, THIRUVANANTHAPURAM, PIN - 695012 4 THE JAIL ADVISORY BOARD CENTRAL PRISON , POOJAPURA, THIRUVANANTHAPURAM REPRESENTED BY ITS CHAIRMAN, PIN - 695012

OTHER PRESENT: SRI.HRITHWIK.C.S, PP THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 01.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

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Dated this the 1st day of November, 2023

JUDGMENT

The above writ petition is filed with following prayers:

i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 3 rd Respondent to grant ordinary leave (ordinary parole) to the Petitioner who is presently lodged in Central Prison and Correction Home Thiruvananthapuram, as provided under the Prison and Correctional Services (Management) Rules, 2014. ii) Issue a writ of Mandamus or any other appropriate writ

order or direction and direct the respondents to consider

and pass appropriate orders for release of the Petitioner who is lodged in Central Prison and Correction Home, Thiruvananthapuram, on parole in accordance with law, with immediate effect; iii) Declare that the Petitioner, Convict No. 3852, who is presently lodged in the Central Prison and Correctional Home, Thiruvananthapuram, is entitled to be released on parole. iv) Petitioner also prays that this Honble court may be pleased to dispense with the translation of documents produced in the Vernacular Language. And v) Grant such other relief deemed fit to this Honble Court. (sic)

2. The petitioner is undergoing imprisonment based on the

conviction and sentence imposed in Sessions Case No.375 of 1997 of -3- the Additional District and Sessions Court (Fast Track-II) Thiruvananthapuram. The main prayer in this writ petition is to issue a direction to the 3rd respondent to grant ordinary leave (ordinary parole) to the petitioner.

3. This Court directed the public prosecutor to get

instructions. The public prosecutor, on instructions, submitted that the petitioner was sentenced by the trial court because he committed murder of the 1st wife. The 2nd wife filed a statement saying that if the petitioner is coming out from jail, he will attack her and her children. She apprehend danger. In such situation, this Court is not in a position to pass any order granting ordinary leave to the petitioner. If there is any change of circumstances, the petitioner is free to file fresh application in future. With the above observation, this WP(Crl.) is disposed of. sd/- P.V.KUNHIKRISHNAN JUDGE das -4- APPENDIX OF WP(CRL.) 1087/2022 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE APPLICATION DATED 16.09.2022 SENT TO THE3RD RESPONDENT Exhibit P2 A TRUE COPY OF THE REPLY DATED 17.10.2022 SENT BY THE 3RD RESPONDENT

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