



GOVERNMENT OF KERALA

Abstract

Home Department - Prisons - Orders of the Hon'ble Supreme Court in Crl A No.162/2017 filed by Sri.Biju@Joseph - Compliance of court direction- Orders issued.

HOME(B)DEPARTMENT

G.O.(Ms)No.90/2024/HOME Dated,Thiruvananthapuram, 23-03-2024

- Read 1.Judgment of the Hon'ble. Sessions Court Thalassery dated 11.11.2008 in SC No.462/2007
- 2.Judgment of the Hon'ble High Court dated:03.07.2012 in CRL.A 108/2009
- 3.Orders of the Hon'ble Supreme Court dated 31.07.2019 and 29.02.2024 in Crl.A No.162/2017 filed by Sri.Biju@Joseph
- 4.Government letter No. B1/131/2019-Home dated 07.09.2019
- 5.Letter No. ADPO/T/ME/18/2023-24 dated 07.08.2023 of the Additional District Probation Officer, Kannur.
- 6.Letter No.32 /DCRB/PRL/2023/KL dated 01.09.2023 of the District Police Chief, Kannur Rural.
- 7.Letter No.WP1-7850/2024/PrHQ dated 12.03.2024 of the Director General, Prisons and Correctional Services, Thiruvananthapuram.

ORDER

Sri.Biju@Joseph, a prisoner of Open Prison and Correctional Home Cheemeni has filed Criminal Appeal No.162/2017 before the Hon'ble Supreme Court. As per order dated 31.07.2019 read as 3rd paper above, Hon'ble Supreme

Court directed the Home Secretary, State of Kerala to place all the papers of the prisoner before the Advisory Board for considering whether he is entitled for premature release as per the Remission Rules and the Jail Manual of the State of Kerala within four weeks.

2) Sri.Biju@Joseph, a life term prisoner of Open Prison and Correctional Home Cheemeni, had only completed an actual sentence of 11 years in **09/2019**. As per Section 433A of the CrPC, a person serving a life sentence for an offence that also carries the death penalty, or where a death sentence has been commuted to life imprisonment, the person isn't eligible for release from jail unless they've completed a minimum of fourteen years of imprisonment. The Jail Advisory Board will consider the premature releases on completion of 14 years of imprisonment observing the Rules in Chapter 36 of Kerala Prisons & Correctional Services (Management)Rules,2014. Government can act only after getting a favourable recommendation of the Jail Advisory Board. The aforesaid position has been conveyed to the Law Officer O/o Resident Commissioner Kerala House, New Delhi as per Government letter read as 4th paper above for apprising the situation to Hon'ble Supreme Court.

3) Hon'ble Supreme Court considered the matter on 29.02.2024 and as per order read as 3rd paper above, granted time State of Kerala to pass an order on or before 01.04.2024 and provide copies thereof to the learned counsel appearing for the appellant.

4) C No.569 Biju@Joseph, of Open Prison and Correctional Home Cheemeni has completed 14 years, 06 months and 26 days of imprisonment as on 30.06.2023. As he completed 14 years of actual incarceration as mandated by the section 433A of CrPC, the Advisory Board of Open Prison and Correctional Home, Cheemeni held on 12.12.2023 considered the matter of the release of the prisoner and recommended for his release.

5)Prosecution case in brief was that on 11.05.2005, Biju poured kerosene over his wife Thressiamma and set fire to her as she was unwilling to

hand over her inherited land to his name. As per judgment read as 1st paper above, Hon'ble Sessions Court Thalassery convicted him in SC No.462/2007 and sentenced to undergo rigorous imprisonment for life and to pay a fine Rs 20000/- i/d rigorous imprisonment for 02 years u/s 302 IPC. Aggrieved by this, he approached Hon'ble High Court through CRL.A 108/2009, but the Hon'ble court dismissed the appeal by confirming the conviction and sentence under section 302 IPC, as per judgment read as 2nd paper above.

6) Additional District Probation Officer, Kannur, as per letter read as 5th paper above, reported that Biju is able to earn his living if he is released prematurely and his sister is willing to provide him with food and shelter. No law and order issues were reported against him when released on leave earlier. Opinion of victim's family could not be obtained. Natives also not opposed his release. Hence, Additional District Probation Officer, Kannur recommend for his release.

7) District Police Chief, Kannur Rural, as per letter read as 6th paper above, reported that he may assault and threaten victim's family members and witnesses if he is released. Therefore they have objected to his release. Further he may involve in similar kind of offenses for money and other benefits. His release may convey wrong message to the society and may facilitate offences against women. Therefore District Police Chief Kannur Rural did not recommend his release.

8) Government have examined the matter in detail with respect to the judgments of Hon'ble courts, probation report, police report and report of Director General, Prisons and Correctional Services. The District Probation officer reported his social and familial acceptance and the possible post release rehabilitation. But could not collect the opinion of victim's family members which is of utmost importance as far as premature release of a prisoner is concerned. District Police Chief collected the information on victim's family and reported that his release may cause law and order issues in the area. There is

objection from the victim's family members and their relatives since they are afraid of his release.

9) Large number of criminal attacks against women nowadays shows that punitive measures being imposed at present are not sufficient to deter and curb such offences. Stopping crimes against women is essential to ensure their safety, security and their better growth in the society. Gender-based violence perpetuates gender inequalities and discrimination. Stopping these crimes is essential for the advancement of gender equality, as it allows women to participate in all aspects of life and reach their full potential. As a responsible Government, it is utmost imperative to take appropriate stand regarding the release of prisoners who has a history of attacking women to make aware of society of the rigidness of the punishment.

10) Government is of the view that the sentence undergone by C No.569 Biju@Joseph is not sufficient to be considered for premature release as he committed offence of murder of his wife who expected safety, care, protection and love from him as a husband. On assessing the aforesaid reports, the reasons and the circumstances, Government found that this is not a fit case to invoke the authority vested in the Government to exercise its powers of premature release of convicts and hence the proposal for premature release of C No.569Biju@Joseph, Open Prison and Correctional Home Cheemeni is hereby rejected.

11) Orders of the Hon'ble Supreme Court in Crl A No.162/2017 filed by Sri.Biju@Joseph read as 3rd paper above are complied with accordingly.

(By order of the Governor)

BISHWANATH SINHA

ADDITIONAL CHIEF SECRETARY

Advocate General, Ernakulam (with C/L)

Director General, Prisons and Correctional Services,

Thiruvananthapuram

Superintendent, Open Prison and Correctional Home, Cheemeni

Principal Accountant General (Audit / A & E), Kerala

Thiruvananthapuram

General Administration (SC) Department (as per item no.2110,
dated 06.03.2024, for information)

Information and Public Relations (Web & New Media) Department

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Section Officer