

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.2207 of 2025

Fakrudeen

... Petitioner

Vs.

1. The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai 600 008.
2. The Superintendent of Prisons,
Central Prison-2
Puzhal, Chennai - 600 066.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondent to remove the petitioner from the solitary confinement and to provide basic facilities to the petitioner, namely, Pakrudeen S/o. Sikkandhar Basha, aged about 45 years, Remand Prisoner No.32974, Central Prison-II, Puzhal.

For Petitioner : Mrs. S. Nadhiya
For Respondents : Mr. P.Kumaresan,
Assisted by
Mr.R. Muniyapparaj
Additional Public Prosecutor
for R1 & R2

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ of Mandamus has been instituted to direct the respondents to remove the prisoner from the solitary confinement and to provide basic facilities to the prisoner, Mr. Fakrudeen, S/o.Sikkandhar Basha, aged about 45 years, remand prisoner no.32974, presently lodged at Central Prison -II, Puzhal, Chennai.

2. The petitioner/remand prisoner was arrested by Gudiyatham Town Police in connection with Crime No.408 of 2013, now pending in S.C.No.143 of 2013 on the file of the Special Court for Bomb Blast Cases at Poonamallee, Chennai. The petitioner/remand prisoner was arrested in the year 2013 and he is in actual imprisonment as remand prisoner for the past about 11 years.

3. The Superintendent of Prisons/ 2nd respondent filed a counter affidavit.

The details regarding the pending cases against the petitioner are as under :

Sl. No.	Name of the Police Station and Crime No.	Name of the Court
1.	Kudiyatham, PS Cr.No.408/2013, u/s. 302, 379, 120(b)	Bomb Blast Court, Poonamallee. (Pansat Charma Murder case)
2.	Vyalikaval (CCB Crime), Police Station, Cr.No.118//2013, u/s.120(b), 121, 121-A, 123, 122, 307 435, 201, Explosive Substance Act (ES Act)- 3,4,5,6	49th Additional Sessions Court, Bangalore. (BJP Office Bomb blast Case)
3.	CBCID Vellore, PS Cr.No.01/2013, u/s.302, 147, 149, 150, 120(B), 302, Explosive Substance Act (ES Act) 3,4,5	Bomb Blast Court, Poonamallee.
4.	Paramakkudi PS Cr.No.90/2013, u/s.153(a), 120(b), 120(B), 302, 506(ii) Explosive Substance Act (ES ACT) 5 unlawful activities prevention Act 16, 18	II Additional District Sessions Court, Poonamallee. (Murugan Murder Case)
5	CBCID Vellore, PS Cr.No.599/2013, u/s.302 Explosive Substance Act (ES Act)-5	Bomb Blast Court, Poonamallee. (Vellaiyappan Murder case)
6	Thirumangalam Taluk PS Cr.No.237/11, U/s.307 Explosive Substance Act (ES Act) 5	Bomb Blast Court, Poonamallee (Tr.L.K. Advani Pipe Bomb Case)
7	Hasthampatti PS Cr.No.297/13, u/s.302 IPC Unlawful Activities Prevention Act 18, 16 Arms Act -25(1-A) 153(a), 120(B)	Bomb Blast Court, Poonamallee (Auditor Ramesh Murder Case)
8	Puthur P.S.Cr.No.187/2013, U/s.120(b), 332, 307	Assistant SesssionsCourt, Puthur
9	Thideernagar PS Cr.No.554/2013, u/s.147, 148 @ 147, 148, 302 IPC unlawful Activities Prevention Act 19	Bomb Blast Court, Poonamallee (Palkaran Suresh Murder Case)
10	M-3, Puzhal, PS Cr.No.1591/2015, u/s.147, 148,341, 294(b), 332, 353, 347, 324, 307, 506(ii), TNPD L Act 3(i)	Judicial Magistrate Madhavaram/

<i>Sl. No.</i>	<i>Name of the Police Station and Crime No.</i>	<i>Name of the Court</i>
11	Puzhal PS Cr.No. 576 of 2018, u/s.440, 426	Judicial Magistrate, Madhavarm
12	Vilakkuthoon PS Cr.No.504/2010, u/s.341, 324, 307	6th Addl. Sessions Court, Chennai.
13	M-3 Puzhal PS Cr.No.313/2023, u/s.353, 506(ii) IPC	Judicial Magistrate, Madhavaram
14	M-3 Puzhal PS Cr.No.1018/2024, U/s. 296(b), 132, 151(ii) BNS Act	Judicial Magistrate, Madhavaram
15	M-3 Puzhal PS Cr.No.1033/2024, U/s.109, 115(ii), 132, 151(ii) BNS Act	Judicial Magistrate, Madhavaram
16	M-3 Puzhal PS Cr.No.1051/2024, u/s.42 Prison Act	Judicial Magistrate, Madhavaram

4. The cases registered against the petitioner after incarceration in prison are as detailed under:

<i>Sl. No.</i>	<i>Name of the Police Station and Crime No.</i>	<i>Name of the Court</i>
1.	M-3 Puzhal, PS Cr.No.1591/2015, u/s.147, 148, 341, 294(b), 332, 353, 347, 324, 307, 506(ii) TNPD Act 3(1)	Judicial Magistrate, Madhavaram.
2.	Puzhal PS Cr.No.576/2018, u/s.440, 426	Judicial Magistrate, Madhavaram.
3.	Vilakkuthoon PS Cr.No.504/2010, U/s.341, 324, 307 IPC	6th Additional Sessions Court, Chennai.
4	M-3 Puzhal PS Cr.No.313/2023, u/s.353, 506(ii) IPC	Judicial Magistrate, Madhavaram
5	M-3 Puzhal PS Cr.No.1018/2024, U/s. 296(b), 132, 151(ii) BNS Act	Judicial Magistrate, Madhavaram
6	M-3 Puzhal PS Cr.No.1033/2024, U/s.109, 115(ii), 132, 151(ii) BNS Act	Judicial Magistrate, Madhavaram
7	M-3 Puzhal PS Cr.No.1051/2024, u/s.42 Prison Act	Judicial Magistrate, Madhavaram

5. In pursuance of registration of the above criminal cases, respondents made a submission that the petitioner/remand prisoner is causing inconvenience to the prison authorities on many occasions, which resulted in conflict between the prison authorities and the petitioner/remand prisoner. Prison punishments are also imposed on the petitioner/remand prisoner and therefore, the present writ petition is to be rejected.

6. The learned counsel for the petitioner would submit that the petitioner has been treated inhumanely and even the admissible minimum facilities under the Rules have not been provided to the petitioner/remand prisoner. He has been presently under solitary confinement, which is impermissible as far as the petitioner/remand prisoner is concerned. The canteen facilities are not provided to the petitioner/remand prisoner. He is not allowed to read newspapers. The petitioner/remand prisoner is pursuing second year B.A. Political Science degree course and the prison authorities are not providing books for the petitioner/remand prisoner to pursue his education.

7. In view of the serious allegations raised by the petitioner/remand prisoner, this Court directed the prison authorities to produce the petitioner/remand prisoner through video conference. On 24.01.2025, the petitioner/remand prisoner appeared through video conferencing and made a complaint that the prison authorities are closely watching him by standing nearby the camera and he is not in a position to speak the truth and in the event of speaking truth by sitting inside the prison, he will have to face serious consequences. Therefore, this Court directed the prison authorities to produce the petitioner/remand prisoner for examination. The petitioner/remand prisoner was produced before this Court on 27.01.2025. This Court examined the petitioner/remand prisoner. The petitioner/remand prisoner made a submission that he had been beaten up by the prison authorities at the instructions of the higher authorities. He has not been provided minimum facilities even to read the newspaper and books. He had been beaten up severely on several occasions by the prison authorities.

8. In the above backdrop, this Court requested Mr. P. Kumaresan, learned Additional Advocate General to secure necessary instructions.

9. The learned Additional Advocate General would submit that the facilities as permissible under the Rules will be provided to the petitioner/remand prisoner. On some occasion, this petitioner/remand prisoner, having involved in many heinous offences, is causing inconvenience to the authorities for performing their duties. At the time of arising of conflict, the prison authorities are bound to initiate action under the Prison Manual and to impose punishment if the allegations are established. Therefore, the prison authorities have acted in accordance with law and the present writ petition is to be rejected.

10. It is needless to state that the prison officials are responsible for safeguarding the prisoner's rights and to ensure compliance with legal provisions. Section 436(A) of the Cr.P.C plays a vital role in ensuring the release of under trial prisoners. In the present case, the petitioner/remand prisoner is languishing in prison for the past about 11 years as the trial is prolonging. The reason for increase and longevity of the criminal cases are also raised before this Court.

11. The members of the Bar made several complaints about the situation prevailing in Special Court for Bomb Blast cases at Poonamallee. The young

members of the Bar also made complaints that they have not been treated with courtesy before the Trial Courts. Even they are not permitted to drink water despite the fact that they are waiting in the Court Hall during course of taking evidence for more than 3 to 4 hours. It is brought to the notice of this Court that toilet and drinking water facilities are not provided in the Court premises and Bar room is also not available.

12. Numerous complaints are made and we have requested the President of the concerned Bar Association Mr.Vijayakumar, to pursue the representation already submitted by them before the High Court.

13. In order to ensure that the basic facilities are provided to the members of the Bar and the litigants in the Court premises, we have requested the Registrar, City Civil Court, Chennai to ensure that required toilet facilities are to be provided both for male and female lawyers and also to the litigants appearing before the Courts. We have requested them to provide drinking water facilities as per the requirement.

14. One of the complaints raised is that Special Court is not permitting the

lawyers to appear through video conference. Video conferencing is presently made as a Rule by the High Court and such a facility cannot be denied by any Court. We have verified the facility available to the Special Court at Poonamallee with the Registrar (IT cum Statistics). The Registrar, on verification, informed this Court that full video conferencing is intact and therefore, the lawyers are at liberty to conduct cases through video conferencing. The Special Court in this context shall permit the lawyers and litigants to conduct cases through video conference as per Video Conference Rules .

15. In view of the fact that the petitioner/remand prisoner in the present case is languishing as a remand prisoner for about 11 years, it is necessary for this Court to reiterate the rights of the remand prisoners, which is internationally and nationally accepted.

16. A prisoner is entitled to basic human rights and has the right to live with dignity in jail. The prisoners' right to education is a human right grounded in the right to dignity. The aims of imprisonment include reformation and rehabilitation, apart from deterrence. The prison education can provide a source of hope and aspiration whilst making purposeful use of time in detention. It also

helps them lead better lives once they are free.

17. In the case of *Mohini Jain /vs/ State of Karnataka AIR1992 SC 1858*, the Apex Court held that the right to education is the essence of the right to life and directly flow and interlinked with it, and life living with dignity can only be assured when there is a significant role of education. Later the validity of this judgment was re-examined by the Constitution Bench of the Apex Court in the case of *J.P.Unnikrishnan /vs/ State of Andhra Pradesh AIR1993 SC 2178*, where the Court held that " right to education means citizen has the right to call upon the State to provide the facilities of education to them according to the financial capacity".

18. In the case of *Mohammad Giasuddin /vs/ State of Andhra Pradesh, AIR 1977 SC 1926*, the Apex Court issued directions to regulate the manner of work and education provided to jail inmates.

19. The United Nations approved Standard Minimum Rules for the Treatment of Prisoners, 1955 states that the treatment of prisoners underlined the

importance of education and training for all prisoners, who are able to benefit. The basic principles for the Treatment of Prisoners, 1990 also reiterate the said principles. Principle 6 states that " All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality "

20. Importantly, in the context of the present case, an under trial prisoner is an accused individual held in Judicial Custody while his case is being heard in Courts. Fundamental rights of under trial prisoners are also reiterated by the Constitutional Courts time and again. It ensures humane treatment and legal protections.

21. Accordingly, right to maintain personal dignity and privacy during incarceration, and protection from being placed in solitary confinement as a punitive measure, and guaranteed. The right to life and personal liberty under Article 21, ensuring basic human dignity and freedom within the bounds of lawful custody. The right to live with dignity includes protection from degrading or inhuman treatment. Right to health and medical treatment stipulates access to adequate healthcare services while in custody. Right to speedy trial is a

constitutional guarantee provided against undue delays in legal proceedings. Right against inhuman treatment includes prohibition of torture or physical abuse. When these all are the fundamental rights of the under trial prisoners, legally enforceable and guaranteed under the Constitution of India as reiterated by the Constitutional Courts across the country, the prison authorities are expected not to deny such rights to the under trial prisoners and in the event of any such denial, they raise a cause for the prisoner to approach the Court of Law.

22. In the present case, the allegations of solitary confinement and inhumane treatments are also put forth before this Court. Though they remain to be as allegations before this Court, the same are to be looked into by the higher authorities of the prison department and they are duty bound to ensure that the fundamental rights of the under trial prisoners are protected in Jail.

23. During the course of examination, the petitioner/remand prisoner before this Court made a complaint that reputed lawyers/leading practitioners are not accepting brief to conduct trial in Special Court at Poonamallee, as they have to travel all along to Poonamallee only for conducting this case. In this context, the members of the Bar also made a submission that representations are

submitted for shifting of the Court from Poonamallee to any other place inside the city. However, it is for the administration to take a call and consider the same in the manner known to law.

24. Considering the fact that the remand prisoners are languishing in prison for long number of years and the trial is unable to be concluded on account of certain practical difficulties including the fact that many of the leading lawyers are not accepting brief to conduct cases at Special Court in Poonamallee, we have requested the learned Additional Advocate General to assist the Court for the purpose of engaging a lawyer at the choice of the petitioner/remand prisoner. Before this Court, the petitioner made a submission that if Mr.B.Mohan is appointed, he is satisfied and he will cooperate for completion of trial before the Special Court. We have requested the learned Additional Advocate General to discuss the issue with Mr.Mohan, defence lawyer, who in turn graciously agreed to conduct trial before the Special Court on behalf of the petitioner/remand prisoner.

25. Mr.B.Mohan, learned Advocate appearing through video conferencing also gave consent before this Court that he will appear and conduct trial on

behalf of the petitioner in all the cases, which all are pending before the Special Court.

26. In this regard, Mr.B.Mohan, learned defence counsel is permitted to engage lawyers to assist him to conduct the trial and to represent the cases of the petitioner before the Special Court during all hearings.

27. The District Legal Services Authorities shall settle the legal fees both to the learned senior advocate Mr.B.Mohan and to the lawyers nominated to assist him for conducting trial in accordance with the provisions of the Rules. The legal fees is to be settled on case to case basis and in consonance with the rules. The legal fees need not be delayed in the case since the learned counsel Mr.B.Mohan agreed to conduct the trial by taking additional effort since he has to travel all along from Bhavani to Chennai and Poonamallee.

28. The petitioner/remand prisoner and the prosecution side are directed to cooperate with the Special Court for conduct of trial as expeditiously as possible. Since many number of cases are pending, it would be inappropriate for this court to fix a time line to complete the trial. However, the Trial Court is requested to take effort to conclude the trial in an expeditious manner, since the petitioner is

languishing in jail as remand prisoner for about 11 years.

29. The respondents herein are directed to ensure that the fundamental rights ensured to the prisoners are protected and the facilities admissible under the rules are provided. The petitioner/remand prisoner also shall cooperate with the prison authorities for conducive atmosphere and by not developing conflict with others.

30. With the above observation and directions, this writ petition is disposed of. No costs

[S.M.S., J.] [M.J.R., J.]

29.01.2025

Index: Yes
Speaking
mrp

To

1. The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai 600 008.

2. The Superintendent of Prisons,
Central Prison-2
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