

## Legal current Affairs

### 'Don't Have Special Powers Like SC U/Art 142': Madras High Court Rejects Early Release Of Convicts Nalini And Ravichandran In Rajiv Gandhi Assassination Case

The Madras High Court, in the case of S. Nalini v. State of Tamil Nadu and others W.P 7615 of 2022, On Friday, the Madras High Court denied a plea filed by S. Nalini and RP Ravichandran, both prisoners in the Rajiv Gandhi assassination case, seeking their release prematurely.

According to the bench of Chief Justice Munishwar Nath Bhandari and Justice N Mala, the High Court lacks the extraordinary powers granted to the SC under Article 142 of the Constitution. As a result, it cannot grant their release, as the Supreme Court did for Perarivalan, another assassination suspect. As a result, the petition was rejected as being unmaintainable.

Nalini and Ravichandran have petitioned the Madras High Court for an early release. The appeal sought a declaration that the Governor's failure to act in line with the cabinet of ministers' guidelines was unlawful. The appeal also asked the state to release the petitioner from prison without the consent of Tamil Nadu's governor.

Despite the fact that she became suitable for early release in 2001, the petitioner claims she has yet to be released. The defendants, she said, did not take the frequent representations into account.

The Tamil Nadu Council of Ministers later recommended the government on September 9, 2018. Governor must free the petitioner under Article 161 of the Constitution. Despite the fact that he is in office, the Governor has yet to act on this advice obligated by the State Government's guidance, as the Supreme Court ruled in AIR 1980 SC 2147 Maru Ram v. Union of India.

The state, on the other hand, argued that because the governor had not approved the remission, it could not be interpreted to mean that the court could issue release orders or that the state could release the offenders. It had been also argued that, while the Governor was bound by the Court's ruling and council of minister's recommendation it was necessary to obtain his assent for the release of the document, as he is the constitutional leader of the state.

When an issue did not fit within the scope of Article 72, i.e., when the pardoning authority did not rest with the President, the Governor was obligated by the Council of Ministers' decision, and his written authorization was also required.

The court has previously stated that Article 161 did not make the Council of Ministers' decision binding. The Ministers have not been given any power, according to the bench.

The court also stated that the Supreme Court's powers under Article 142 could not be equated to the High Court's powers under Article 226 and indicated that the petitioner should move the SC if he or she wanted to be released based on the recent Supreme Court ruling freeing Perarivalan. The court had previously declined to consider the bail application, claiming that a convict's right to request release was not recognised by law. The court had instructed the petitioner to first demonstrate that a bail application was admissible before hearing the bail case.