

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

H.C.P. NO. 3244 OF 2015

V.Thangaraj

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By the Home Secretary
Fort St. George
Chennai 600 009.
2. The Superintendent of Prison
Central Prison, Puzhal - II
Chennai.
3. The Inspector of Police
Alangulam Police Station
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of habeas corpus directing the respondents to produce the father of the petitioner, viz., M.Veldurai, S/o S.Maruddha Pandi Thevar, before this Court and set him at liberty forthwith for a period of six days from 23.12.2015 to 28.12.2015.

For Petitioner : Mr. C.Prabhakaran

For Respondents : Mr. A.N.Thambidurai, APP

ORDER
(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed by the son of the detenu for a direction to the respondents to produce the father of the petitioner, viz., M.Veldurai, S/o S.Maruddha Pandi Thevar, before this Court and set him at liberty forthwith for a period of six days from 23.12.2015 to 28.12.2015.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Public Prosecutor appearing for the respondents.

3. It is the case of the petitioner that his father M.Veldurai, is a life convict, undergoing life sentence in S.C. No.62/2006. It is further stated by the petitioner that his grandmother, viz., the mother of the detenu, Swarnathai, died on 25.11.2015 for the purpose of performing the 30th day ceremony, the presence of the detenu is essential. Therefore, the petitioner submitted a representation dated 21.12.2015 to the Superintendent of Prison, Puzhal seeking leave for six days for the detenu to attend the 30th day memorial scheduled to be held on 24.12.2015. Since no order has been passed on the said representation, the present petition has been preferred.

4. Learned Addl. Public Prosecutor submits that earlier, on the death of Swarnathai, the detenu, Veldurai, was granted emergency leave to attend the funeral of his mother. Learned Addl. Public Prosecutor further submits that the said detenu may not be entitled to leave as he has exhausted his quota of leave for the year. Learned Addl. Public Prosecutor, however, submitted that the Superintendent of Prison, does not have authority under the leave rules and it is only the Dy. Inspector General of Prisons, who is the competent authority to grant leave.

5. Be that as it may. It is seen that a representation dated 21.12.2015 has been submitted by the petitioner to the Superintendent of Prison and assuming that the Superintendent of Prison does not have the power, he is bound to forward it to the next higher authority for passing appropriate orders.

6. In the above circumstances, this habeas corpus petition is closed with a direction to the second respondent to forward the representation dated 21.12.2015, submitted by the petitioner, to the next higher authority for passing orders in accordance with law.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

GLN

To

1. The Secretary to Government
Home Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009.

2. The Superintendent of Prison
Central Prison, Puzhal - II
Chennai.

3. The Inspector of Police
Alangulam Police Station
Tirunelveli District.

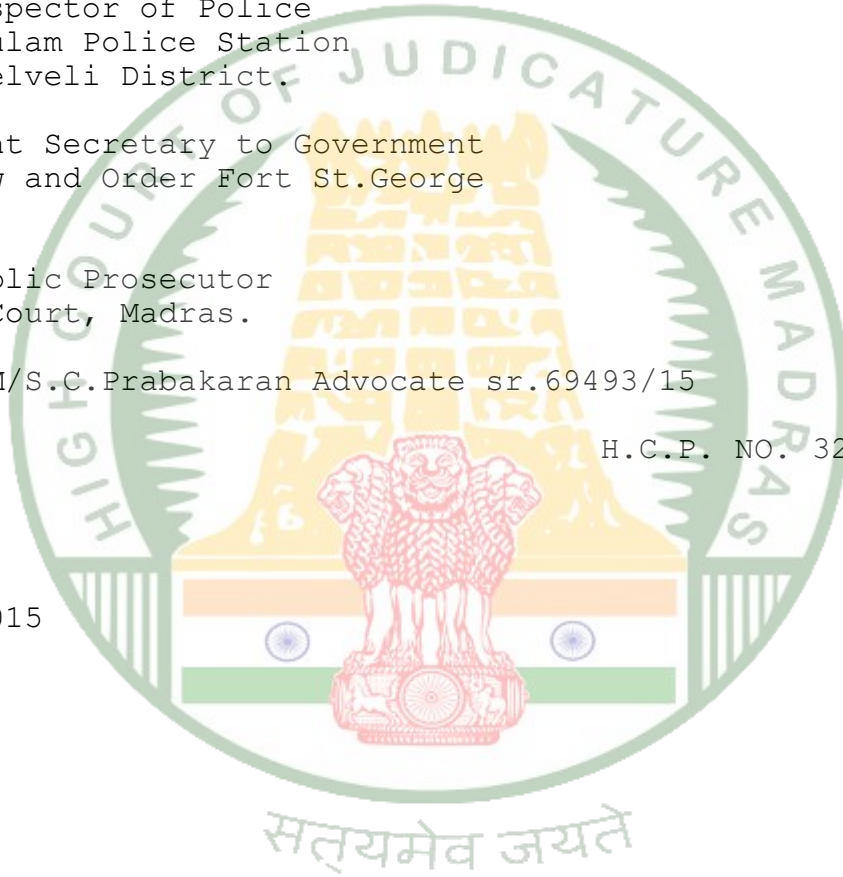
4. The Joint Secretary to Government
Public Law and Order Fort St. George
Chennai-9

5. The Public Prosecutor
High Court, Madras.

+1 cc to M/S.C.Prabakaran Advocate sr.69493/15

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