

In the High Court of Judicature at Madras

Dated: 15.12.2015

Coram

The Honourable Mr.JUSTICE R.SUDHAKAR  
and  
The Honourable Mr.JUSTICE P.N.PRAKASH

Habeas Corpus Petition No.396 of 2015

Sivaraman

... Petitioner

Vs.

State rep. by

1. The Additional Director General of Police  
(Prison), Gandhi Irwin Road,  
Egmore, Chennai.
2. The Superintendent of Police,  
Central Prison,  
Palayamkottai  
Tirunelveli District,

... Respondents

PETITION under Section 226 of The Constitution of India  
praying for the issuance of Writ of Habeas Corpus directing the  
first respondent to grant parole for a period of three months to  
the petitioner Sivaraman, S/o Pandurangan, who is confined under  
the 2nd respondent herein.

For Petitioner : Mr.K.P.P.Raja Raja Chozhan

For Respondents : Mr.A.N.Thambidurai,  
Addl. Public Prosecutor

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O R D E R  
(Order of the Court was made by P.N.PRAKASH,J.)

This Habeas Corpus Petition is filed by the petitioner, who  
is a life convict in S.C.No.230 of 2000 on the file of the  
Principal District and Sessions Court, Cuddalore, for a  
direction to the first respondent to grant parole for a period  
of three months to the petitioner, who is confined under second  
respondent herein, on the ground that his wife is physically  
indisposed.

2. The respondent - police have filed a counter, wherein it is stated as follows:

"With reference to para 2 of the affidavit, it is submitted that the petitioner has been convicted to undergo life imprisonment by the Additional District Judge cum Chief Judicial Magistrate, Cuddalore in S.C.No.230/2000 U/s 302, r/w 34 IPC and admitted at Central Prison Cuddalore on 20.12.2002. Apart from the life sentence, the petitioner is facing pending case before the Judicial Magistrate II, Hosur in CC.No.400/2008 U/S 406, 279 IPC r/w 468, 469, 471 IPC and for the above pending case he is being produced before the concerned Court for the trial. Previously the Petitioner was transferred to the following prisons due to administrative grounds since he is identified as a hardcore prisoner.

1) Central Prison Cuddalore to Central Prison Salem - Date of Transfer - 23.10.2010.

2) Central Prison Salem to Central Prison Coimbatore - Date of Transfer - 24.08.2013.

3) Central Prison Coimbatore to Central Prison Palayamkottai - Date of Transfer 02.08.2014.

With reference to Para (3) to (8) of the affidavit no remarks to offer.

With reference to para (9) of the affidavit it's submitted that the petitioner's wife has submitted a representation dated 15.12.2014 (received from the chief office on 27.01.2015) seeking to release her husband on ordinary leave for a period for 3 months on the grounds of her ailments. Since the petitioner is having pending case before the Judicial Magistrate No.II, Hosur, the petitioner is not entitled for availing any leave as per Tamil Nadu suspension of sentence Rules 1982 Rule No.35 read as follows:

"No Prisoner on whom case is pending trial shall be granted leave".

The above fact has been intimated to the petitioner vide this office letter No.0563/R2/2015 dated:10.02.2015."

3. Learned Additional Public Prosecutor submits that the petitioner is now lodged in Central Prison, Palayamkottai and since his family is in Cuddalore, the Prison Authorities are

contemplating to transfer him to Cuddalore, so that, his family members can visit him. He further submits that his request for leave is being processed by the Authorities and that they are inclined to grant him three days leave to visit his wife and the request to grant three months leave is contrary to Rule 35 of the Tamil Nadu suspension of sentence Rules 1982, in the light of pendency of a criminal trial against him

4. Recording the above submission, this Habeas Corpus Petition stands closed.

sd/-

Assistant Registrar (Cs-IV)

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Additional Director General of Police  
(Prison), Gandhi Irwin Road,  
Egmore, Chennai.
2. The Superintendent of Police,  
Central Prison,  
Palayamkottai  
Tirunelveli District,
3. The Public Prosecutor, High Court, Madras.

+1 CC to MR.K.P.P.Raja Raja Chozhan Advocate. SR.NO.67574

H.C.P.No.396 of 2015

CO-KGK

JD 11/01/2016

सत्यमेव जयते

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