

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.12.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

AND

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

H.C.P.NO.2832 OF 2014

Chella Kumara Swami

.. Petitioner

- Vs -

1. The Addl. Director General
of Police (Prison)
CMDA Tower - II
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008.

2. The Addl. Superintendent of Prison
Conviction Cell
Central Prison
Puzhal, Chennai.

3. The Inspector of Police
Jadarpalayam Police Station
Namakkal District.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus directing the respondents to grant leave for a period of 2 months to the petitioner's son, Sadhasivam, who is confined in Central Prison, Chennai, bearing No. Jet 791 during the operation of the petitioner's wife Angammal pursuant to the representation dated 11.9.2014 given to the respondents.

For Petitioner : Mr. T.Muruganantham

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

ORDER

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

The present petition has been filed by the petitioner for a direction to the respondents to grant leave for a period of 2 months to the petitioner's son, Sadhasivam, who is confined in Central Prison, Chennai, bearing No. Jet 791 during the operation of the

petitioner's wife Angammal pursuant to the representation dated 11.9.2014 given to the respondents.

2. It is the case of the petitioner that his son is a life convict undergoing imprisonment in Central Prison, Puzhal-I, Chennai. The petitioner has further averred that his wife, viz., the mother of the detenu/convict, needs to undergo an operation and, therefore, he had given a representation dated 11.9.2014 seeking ordinary leave for a period of two months for the detenu/convict. Since, the second respondent has not considered the said representation, the present petition has been filed.

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

4. The respondents have filed a detailed counter setting out the eligibility criteria for grant of ordinary leave to a convict and the leave availed by the detenu/convict. Para 3, 4 and 5 of the counter, which are relevant, are extracted hereinbelow :-

"3. I humbly submit that the convict prisoner is not eligible for ordinary leave of 30 days as of now, because as per Prison Manual Part III Rule No.22 (3), it says -

"Eligibility for ordinary leave :- (3) The prisoners thus be granted the second spell of leave not exceeding one month after the completion of 2 years of imprisonment from the date on which he returned from the last ordinary leave."

The petitioner lastly went on ordinary leave for (No.4003/M21/2012 dated 29.12.2012) 30 days on 12.01.2013 and returned back on 12.02.2013. As 2 years period is not completed since then, the petitioner is not eligible to go on 30 days of ordinary leave as of now. He will be eligible for the next 30 days of ordinary leave only by 13th February, 2015. The same was informed to the petitioner through a letter.

4. It is submitted that as per the probation officer report, the wife of the petitioner is really suffering from ortho problem and no one is there to take care of the petitioner's wife.

5. I submit that the said convict prisoner actually belongs to Central Prison, Coimbatore, and was temporarily transferred to this Central Prison-I (Convict) Puzhal on 18.07.2014 for a period of 1 year for medical treatment. The convict prisoner has availed 29 emergency leaves, 11 Government leaves and 1 ordinary leave till now. The prisoner has a provision to go on emergency leave for 15 days in a

year in 4 spells of 6 + 3 + 3 + 3, out of which the prisoner had exhausted 3 spells for this year in the manner mentioned below :

- | | | |
|-----------------------------|---|--------|
| a. 20.01.2014 to 27.01.2014 | - | 6 days |
| b. 09.05.2014 - 13.05.2014 | - | 3 days |
| c. 04.09.2014 - 08.09.2014 | - | 3 days |

He has the last spell of emergency leave of 3 days for this year (2014). So if he needs to attend to his mother's surgery, he can avail the last spell of emergency leave after providing the necessary reports."

5. From the above it is evident that the convict has exhausted his quota of ordinary leave as on the date of representation and, therefore he cannot be granted any further ordinary leave as prayed for by him. However, it is stated that he could file representation for grant of emergency leave, which will be considered in accordance with the rules.

6. In such view of the matter, recording the said stand of the respondent, this habeas corpus petition is closed granting liberty to the detenu/convict to work out his remedies in accordance with law.
GLN

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Addl. Director General
of Police (Prison)
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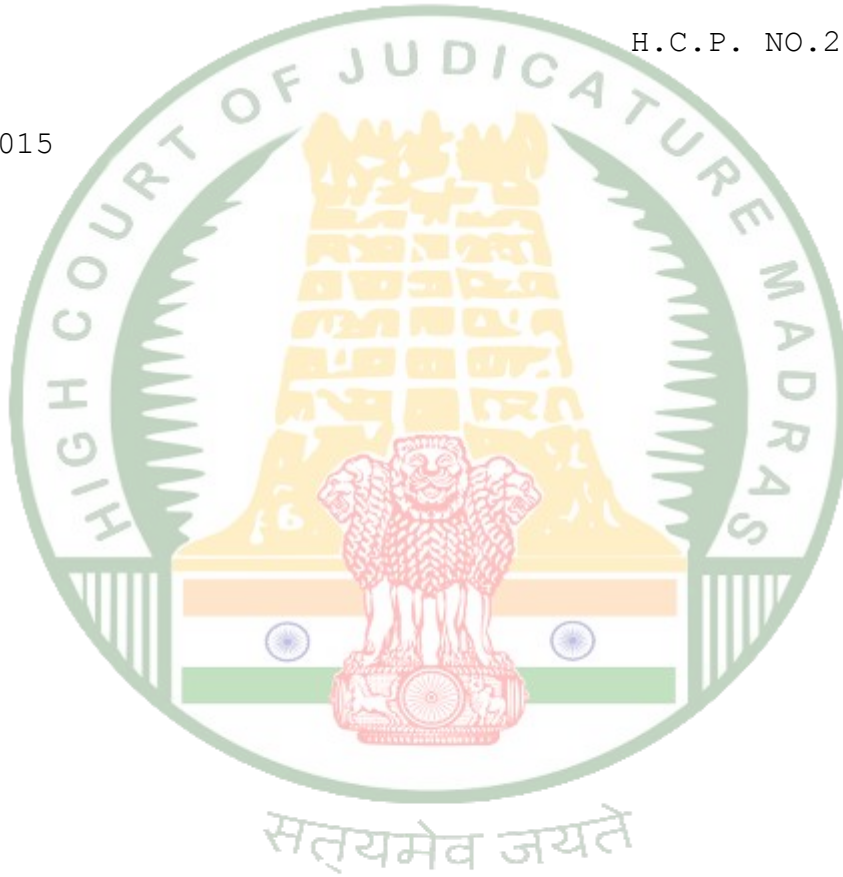
4. The Public Prosecutor
High Court, Madras.

+1 C.C. To MR.T.Muruganantham, Advocate in SR.NO.66415

+1 C.C. To Public Prosecutor, High Court, Madras in SR.NO.60685

H.C.P. NO.2832 OF 2014

SVI(CO)
sd : 30/12/2015



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