

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.37402 of 2015

A.Aruna

... Petitioner

vs.

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Home (Prison IV) Department,
Fort St. George, Chennai-9.

2.The Additional Director General of
Prisons,
Thalamuthu Natarajan Maaligai,
Second Floor, Gandhi Irwin Road,
Egmore, Chennai-8.

3.The Superintendent of Prisons,
Central Prison-I (convict),
Puzhal, Chennai-66.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to grant parole to the petitioner's husband Somu @ Somasundaram, convict prisoner No.571 now confined in Central Prison-I, Puzhal, Chennai so as to assist the petitioner to undergo necessary medical treatment including surgery on the basis of the petitioner's representation dated 6.11.2015 for a period of 25 days.

For Petitioner : Mr.G.Jeremiah
For respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to grant parole to her husband Somu @ Somasundaram, convict

prisoner No.571 now confined in Central Prison-I, Puzhal, Chennai so as to assist her to undergo necessary medical treatment including surgery on the basis of her representation dated 6.11.2015 for a period of 25 days.

2. It is the case of the petitioner that her husband Somu @ Somasundaram is a convict prisoner No.571 and he has been convicted and sentenced to undergo life imprisonment in S.C.No.87 of 2003. Now, he has been confined in the Central Prison (Convict), Puzhal, Chennai-66. The petitioner is suffering from cardiac problem and has been taking treatment for over a year. Now, she is suffering from PCOD due to closure of the right ventricular and incomplete right bundle branch block. Hence, she has been advised to undergo surgery. Presently, she is taking treatment at DRJ Hospital. Hence, she has submitted an application on 6.11.2015 to the respondents to release her husband on parole for a period of 25 days to enable her to undergo required surgery. Since the said representation was not considered so far, she has come up with the present writ petition for the relief set out earlier.

3. The third respondent has filed a detailed counter stating that the petitioner's husband has already availed emergency leave in the following manner --

- (i) 1.2.2015 to 6.2.2015 : Emergency leave by the Superintendent of Prisons.
- (ii) 15.3.2015 to 17.3.2015 : Emergency leave by the Superintendent of Prisons.
- (iii) 24.10.2015 & 25.10.2015 : Emergency leave by the Superintendent of Prisons.

Since the petitioner's husband had already availed 3 spells of 6+3+2 days leave in this year, he can avail one more spell of 3 days emergency leave only. Further, in the counter, it has been stated that since the petitioner's husband is facing trial in two cases, he is not eligible for leave. Thus, he sought for dismissal of the writ petition.

4. Learned counsel appearing for the petitioner submitted that already this Court has allowed the writ petition filed by this petitioner for the similar relief. In this regard, he has also produced the copy of the order made in W.P.No.33343 of 2014 dated 23.12.2014, wherein, this Court in para 5 has held as follows:-

" 5. However, it is seen that as per Rule 36 of the Tamil Nadu Suspension of Sentence Rules, 1982, the day on which a prisoner was released and the day on which he is re-admitted, are to be counted only as days of imprisonment. This is probably due to the fact that prisoners are generally released only in the evening. The respondent has taken into account both the days as days of leave. ... "

5. Considering the facts and circumstances of the case and considering the fact that the averment made in the affidavit filed in support of the petition that the petitioner has to undergo heart surgery is not denied by the respondent in the counter affidavit, I am of the opinion, parole could be granted to the petitioner's husband for a period of seven days.

6. In the result, the writ petition is allowed, directing the respondents to grant emergency leave for seven days from 12th December, 2015 to 18th December, 2015 to the petitioner's husband along with police escort. No costs.

Sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sbi
To

1. The Secretary to Government,
Government of Tamil Nadu,
Home (Prison IV) Department,
Fort St. George, Chennai-9.
2. The Additional Director General of
Prisons,
Thalamuthu Natarajan Maaligai,
Second Floor, Gandhi Irwin Road,
Egmore, Chennai-8.
3. The Superintendent of Prisons,
Central Prison-I (convict),
Puzhal, Chennai-66.

+1 CC to MR.G.Jeremiah Advocate. SR.NO.66420
+1 CC to Govt.Pleader. SR.NO. 66590

W.P.No.37402 of 2015

CO-SV
JD 11/12/2015