

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.8634 of 2015

F.Kalarani

[PETITIONER]

Vs

- 1 The State of Tamilnadu
Rep. by the Secretary to Government
Home Prohibition and Excise Department
Secretariat, Chennai-600 009.
- 2 The Additional Director General of Prisons
Gandhi Irwin Road
Egmore, Chennai-600 008.
- 3 The Superintendent of Prisons
Central Prison,
Palayankottai, Tirunelveli District. [RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus to direct the respondents to release the petitioner's uncle Selva @ Selvaraj S/o.Karuppaiya (CT.No.1000) Convict Prisoner now confined in the Central Prison Palayamkottai, Tirunelveli District on ordinary leave for two months for the purpose of his marriage with the petitioner scheduled to be held on 08.04.2015 at Madurai.

For Petitioner : Mr.P.Pugalenth

For Respondents : Mr.R.Vijayakumar,
Addl. Government Pleader

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.P.Pugalenthi, learned Counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

3.The petitioner has filed this Writ Petition for issuance of Writ of mandamus to direct the respondents to release the petitioner's uncle Selva @ Selvaraj S/o.Karuppaiya (CT.No.1000) Convict Prisoner now confined in the Central Prison, Palayamkottai, Tirunelveli District, on ordinary leave for two months for the purpose of his marriage with the petitioner scheduled to be held on 08.04.2015.

4.The petitioner is said to be working as a Nurse in an Eye Hospital and the convict prisoner is her mother's brother and he has been in prison since 20.08.1991, for about 24 years, pursuant to the Judgment in S.C.No.232 of 1996 dated 25.11.2005, on the file of the First Additional Sessions Court, Chennai.

5.Earlier, the petitioner has filed a Writ Petition before this Court in W.P.No.17311 of 2012, to direct the respondents to release the convict prisoner, her Uncle under 'premature release scheme' as per G.O.Ms.No.1155 dated 11.09.2008 and that writ petition is pending. The marriage between the petitioner and the convict prisoner has been arranged and it is scheduled to take place on 08.04.2015 at Sri Nithi Hotel, Madurai City. In this regard, the brother-in-law of the convict prisoner has also made an Application on 10.03.2015 for grant of two months leave for the convict prisoner for his marriage with the writ petitioner and the said Application is also pending. With these facts, the petitioner seeks for the aforementioned relief.

6.The third respondent Appellate Authority has given written instructions to the learned Additional Government Pleader stating about the conviction suffered by the convict prisoner and his detention as of now at Central Prison, Palayamkottai.

7.It appears that on disciplinary grounds, the convict prisoner was transferred to Central Prison, Cuddalore during 2007. So far as the period of emergency leave or ordinary leave is concerned, the respondent would take a stand that they have got no powers to grant leave for a period of two months and necessary orders of the Government have to be obtained in this regard.

8.So far as the factum with regard to the marriage between the life convict prisoner and the writ petitioner is concerned, the learned Additional Government Pleader has produced a fax message confirming that the marriage between the writ petitioner and the life convict prisoner is to be solemnised on 08.04.2015 at Hotel Srinithi and this has been confirmed by Mattu Thavani Inspector of Police, Madurai.

9. In the light of the confirmation made by the Inspector of Police regarding the factum of the marriage, this Court is of the view that the life convict Selva @ Selvaraj son of Karuppaiah Pillai (CT.No.1000) is entitled for grant of leave ordinarily for a period of 60 days.

10. In the circumstances, the Writ Petition is allowed and the respondents are directed to grant ordinary leave to the life convict Selva @ Selvaraj son of Karuppaiah Pillai (CT No.1000), who is presently at Central Prison, Palayamkottai, Tirunelveli District from 06.04.2015 till 10.05.2015 and the life convict shall report to the Central Prison, Palayamkottai, Tirunelveli by 5.00 P.M., on 10.05.2015. However, the respondents are directed to follow the usual procedure for sending escort along with life convict. However, the charges need not be imposed on the life convict. No costs.

rpa/ssd

-s/d-

Assistant Registrar

Dt:30/3/2015

True Copy

Sub-Assistant Registrar

To

- 1 The State of Tamilnadu
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+ 1 cc to Mr.P.Pugalenthii, Advocate SR 17522

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