



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2015

CORAM:

THE HONOURABLE Mr. JUSTICE M.M. SUNDRESH

Writ Petition (MD) No. 5234 of 2015

Malairaja

... Petitioner

Vs.

The Superintendent of Central Prison,
Madurai Central Prison,
Madurai

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing the respondent to grant 20 days leave (parole) to the petitioner's sons viz., Raja, S/o. Malarraja and Muthukumar S/o. Malarraja who are undergoing sentence as life convict in Central Prison, Madurai to make an arrangement to provide necessary medical treatment to their mother Gandhimathi

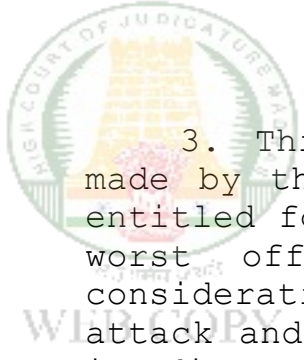
For Petitioner : Mr. R. Maheswaran

For Respondent : Mr. R. Karthikeyan,
Additional Government Pleader

ORDER

The petitioner is father of Raja and Muthukumar bearing life Convicts Nos. 10249 and 10250. They have been convicted for life in S.C.No.97 of 1999. The conviction and sentence imposed upon the sons of the petitioner was confirmed by this Court on 31.05.2011. An appeal was filed by the convicts before the Supreme Court, which is still pending consideration.

2. On 09.03.2015, the petitioner has given a representation stating that his wife is serious ill and therefore, the presence of his sons is required for providing adequate treatment. The petitioner is also said to be afflicted with Paralytic attack. The request made by the petitioner was not considered on the only ground that as the appeal filed by his sons are pending disposal before the Apex Court, It cannot be stated that the conviction has reached finality. Therefore, the present petition has been filed.



3. This Court finds considerable force, in the submissions made by the counsel for the petitioner. When the prisoners are entitled for parole, even as convicts they cannot put in to a much worst off situation, merely because an appeal is pending consideration. The fact that the petitioner is in Paralytic attack and his wife is extremely ill is not disputed. It is not in dispute that even when the petitioner's sons were granted parole on the earlier occasion they duly complied with same and reported back.

4. Therefore, taking note of the aforesaid circumstances, this Court directs the respondent herein to release the said Raja and Muthkumar, S/o.Malairaja (Convict Nos.10249 and 10250), on parole, on 11.04.2015 at 10.00 p.m. on condition that the said Raja and Muthkumar shall report back to the respondent, the Superintendent of Central Prison, Central Prison, Madurai, by 4.00 p.m. on 18.04.2015. Necessary escort will be provided to accompany the said Raja and Muthkumar, S/o.Malairaja.. The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities. During parole, the convict prisoner shall abide all the conditions prescribed in the Jail Manual.

5. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(RTI)

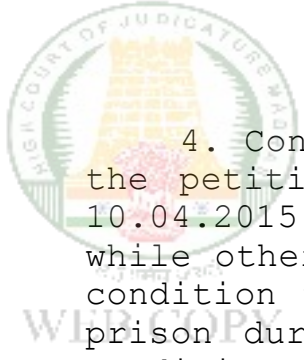
"FOR BEING MENTIONED"

This Petition having been posted this day i.e., Seventeenth day of April, 2015 (17.04.2015) for being mentioned in pursuance to the order of this Court dated 10.04.2015 (on Friday the tenth day April 2015) and made herein in the presence of MR.R.MAHESWARAN, Advocate for the petitioner and of MR.R.KARTHIKEYAN, Additional Government Pleader for the respondent and this Court made the following Order:-

This matter has been taken up to day under the caption "for being mentioned."

2. The learned Counsel for the petitioner submitted that though there is no condition imposed by the order passed by this Court, the respondent is insisting that the petitioner should be present at 06.00p.m. in the Sub Jail, Sivagangai and stay there and can only leave in the morning. He further submitted that a sum of Rs.15,000/- is insisting towards the costs for the presence of the Police Officials.

3. The learned Counsel for the petitioner also submitted that in view of the compliance of the conditions wrongly imposed by the respondent, the petitioner could not make arrangement for which parole was granted.



4. Considering the submissions made by the learned Counsel for the petitioner, this Court is of the view that the order dated 10.04.2015 passed by this Court is very clear to the effect that while other conditions including necessary escort can be made, the condition that the petitioner will have to report and stay in the prison during the evening time has not been imposed. The said condition if imposed would run contrary to the order passed by this Court. Similarly, taking note of the fact that the petitioner is a poor person, he is unable to pay the costs and the reason for which parole is sought, the respondent cannot insist for any payment towards escort.

5. Considering the submission made by the learned Counsel for the petitioner recording the compliance of the condition wrongly imposed by the respondent, the parole granted earlier itself is extended for a further period of three days, subject to the very same conditions. This order will not stand in the way of the petitioner to comply with the condition of signing at 06.00p.m. in the Sub Jail, Sivagangai.

Sd/-

Assistant Registrar(C.O.,)

/True Copy/

Sub-Assistant Registrar

To:

The Superintendent of Central Prison,
Madurai Central Prison, Madurai.

+1cc to Mr.R.Maheswaran, Advocate, in SR. No.19549.

+1cc to Special Government Pleader, in SR No.18539.

Writ Petition (MD)No.5234 of 2015
10.04.2015 & 17.04.2015

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