

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

H.C.P. NO. 975 OF 2015

Marriyammal

.. Petitioner

- Vs -

1. The State rep. by
The Secretary to Government
Of Tamil Nadu, Dept. of Home
Fort St. George, Chennai 600 009.

2. The Addl. Director General of Prison
CMDA Towers
Egmore, Chennai 600 008.

3. The Superintendent
Central Prison
Puzhal - I, Chennai.

... Respondents

Petition filed for the issuance of a writ of habeas corpus directing the respondents to grant leave for 90 days to the petitioner's brother, the detenu, Sekar, S/o Chinnapaiyan, aged about 45 years, Convict No.757, detained at Central Prison, Puzhal-I, Chennai.

For Petitioner : Mr. S.Paul Sathiaselvan

For Respondents: Mr. A.N.Thambidurai, APP for RR-1 & 2

ORDER

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

This petition has been filed by the petitioner, the sister of the detenu, for a direction on the respondents to grant leave for 90 days to the petitioner's brother, the detenu, Sekar, S/o Chinnapaiyan, aged about 45 years, Convict No.757, detained at Central Prison, Puzhal-I, Chennai.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Public Prosecutor appearing for the respondent.

3. It is the case of the petitioner that his brother, Sekar, Convict No.757, undergoing life sentence at Central Prison, Puzhal, Chennai, is physically indisposed and he is required to take treatment as he is suffering from mouth cancer and finds it difficult to travel daily to the hospital from jail, which is detrimental to his health. It is submitted by the petitioner that the detenu has come on parole several times and during all the said periods he had strictly adhered to all the rules and conditions imposed on him. It is further submitted by the petitioner that she sent a representation dated 10.4.2015 to the respondents for grant of 90 days leave to the detenu, which elicited no response. Hence, the present petition has been filed.

4. A counter affidavit has been filed by the third respondent, the Superintendent of Central Prison, Puzhal, Chennai, wherein in para-3 and 4, the leave already availed by the petitioner has been detailed. For better clarity, the relevant portion is extracted hereunder :-

"3. I submit that as per this Hon'ble Court in HCP No.1771/2013 dated 09.10.2013 the said convict prisoner was sent on leave for 30 days from 21.10.2013 to 19.11.2013 for a surgery in brain and transferred to Central Prison, Salem, on 19.10.2013. Now, the said convict was re-admitted in this Central Prison (Puzhal Convict Prison) on 12.03.2014 for medical treatment. I further submit that as per this Hon'ble Court's order in HCP No.61/2015 dated 19.01.2015 the said convict prisoner was sent on leave for 6 days from 21.01.2015 to 26.01.2015.

Recently, the petitioner made a representation seeking emergency leave for the life convict to see his ill mother and for the same he went on leave from 19.03.2015 to 21.03.2015. The petitioner made representation only for emergency leave and not for ordinary leave for 90 days.

4. It is submitted that according to Tamil Nadu Prison Rules, 1982, a prisoner can avail emergency leave of 15 days in a year in 4 spells on 6 days + 3 days + 3 days + 3 days. Out of this, the convict prisoner has exhausted 2 spells of 6 + 3 days for the current year and he still has 2 more spells left. He can avail the remaining spells by giving a necessary representation to the Superintendent of Prisons. The Superintendent of Prisons does not have any power to grant 90 days of leave."

5. In view of the above categorical stand of the respondents stating the leave already availed by the detenu and the leave that can be taken by him, no further orders are required to be passed in this petition. Accordingly, this petition is closed giving liberty to the detenu to work out his remedies in accordance with law.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
Of Tamil Nadu, Dept. of Home
Fort St. George, Chennai 600 009.
2. The Addl. Director General of Prison
CMDA Towers
Egmore, Chennai 600 008.
3. The Superintendent
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Puzhal - I, Chennai.
4. The Public Prosecutor
High Court, Madras.

SVI(CO)
EU 19.1.16

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