

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.18468 of 2016 and
WMP No.16173 of 2016

N.Bhuvaneswari

Petitioner

Vs

1.The Home Secretary
The Government of Tamil Nadu
Fort St.George,
Chennai 9.

2.The Inspector General of Prisons
CMDA Tower-II
Egmore, Chennai 600 008.

3.The Superintendent of Police
Central Prison, Vellore.

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records pertaining to the letter dated 26.02.2016 in No.1565/Tha.Ku.3/2016 and quash the same and direct them to grant leave for my husband Koola Nagarajan @ Nagarajan (Life Convict No.2330).

For petitioner

Mr.S.R.Rajagopal

For R1

Mr.Sanjay Gandhi,
Addl.Govt.Pleader

For R2 and R3

Mr.Mohamed Riyaz
Govt.Advocate [crl.side]

ORDER

This petition has been filed seeking a writ of certiorarified mandamus calling for the records pertaining to the letter dated 26.02.2016 in No.1565/Tha.Ku.3/2016 and quash the same and direct the respondents to grant leave for petitioner's husband Nagarajan @ Koola Nagarajan (Life Convict No.2330).

2. Heard both sides.

3. The petitioner's husband Nagarajan @ Koola Nagarajan is a life convict, whose conviction and sentence has been confirmed by the appellate Court also. The petitioner made a representation dated 04.02.2016 to the prison authorities for grant of ordinary leave of thirty days to her husband to make arrangements and to participate in the marriage of their daughter in terms of Rule 20(iv) of the Tamil Nadu Suspension of Sentence Rules, 1982. The Superintendent of Prison, Central Prison, Vellore rejected the request by order dated 26.02.2016, on the ground that a criminal case is pending against Nagarajan, on account of which he will not be entitled to ordinary leave in the light of Rule 35 of The Tamil Nadu Suspension of Sentence Rules.

4. Mr.S.R.Rajagopal, learned counsel for the petitioner submitted that a case in Mettur Police Station Cr.No.105 of 2011 was registered against the petitioner's husband and after completing the investigation, Final Report was filed and the case is now pending in S.C.No.302/2015 before the Sessions Court, Salem for an offence u/s 302 IPC. He also submitted that the said Nagarajan has been

granted bail in CrI.O.P.No.18990/2011 on 09.08.2011 in Mettur Police Station Cr.No.105 of 2011 and that sureties also have been furnished in the said case. Technically, the petitioner's husband Nagarajan is on bail in Mettur Police Station Cr.No.105/2011 and therefore, he cannot be denied the benefits of leave under the said Rules by invoking Rule 35.

5. In view of the above, the petitioner is directed to give a fresh representation for ordinary leave to the prison authorities enclosing the bail order in CrI.O.P.No.18990/2011 and other surety particulars in Cr.No.105 of 2011 and on such representation being given, the same shall be considered and disposed of within a period of four weeks thereof.

With the above direction, the petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

15.06.2016

gms

NOTE TO OFFICE:

Issue order copy on 16.06.2016

To

1.The Home Secretary
The Government of Tamil Nadu
Fort St.George, Chennai 9.

2.The Inspector General of Prisons
CMDA Tower-II
Egmore, Chennai 600 008.

3.The Superintendent of Police
Central Prison, Vellore.

P.N.PRAKASH,J.

gms

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