

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P. No.21743 of 2016

and

W.M.P. No.18600 of 2016

N. Sumathi

... Petitioner

Vs.

1. The State of Tamil Nadu
represented by the Home Secretary
Fort St. George
Chennai 600 009
2. The Deputy Inspector General of Prison
Egmore, Chennai - 600 008
3. The Superintendent of Prison
Central Prison - 1
Puzhal, Chennai 600 066
4. The Inspector of Police
K.K. Nagar Police Station
Chennai 600 078

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari mandamus to call for the records relating to the order of the third respondent dated 07.05.2016 made in No.4405/Tha.Ku.2/2016, to quash the same and consequently, direct the third respondent to grant ordinary leave to the husband of the petitioner viz., Nithya S/o Subramani (Life Convict No.6055) for a period of 30 days.

For petitioner : Mr. C. Prabakaran

For respondents : Mr. C. Emalias

Additional Public Prosecutor

ORDER

This writ petition is filed calling in question, the legality and validity of the order dated 07.05.2016 passed by the third respondent and for a consequential direction to the third respondent to grant ordinary leave to the petitioner's husband, viz., Nithya S/o Subramani (Life Convict No.6055) for a period of 30 days.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The petitioner's husband by name Nithya, S/o Subramani, is a life prisoner (Life Convict No.6055) and he is undergoing life sentence in the Central Prison -1, Puzhal, Chennai. While so, the petitioner made an application dated 26.04.2016 to the prison authorities for grant of ordinary leave for making educational arrangements for their son, which was rejected by the Superintendent of Prisons on 07.05.2016, challenging which, the petitioner is before this Court.

4. On notice, the respondents have filed a counter, wherein, at paragraph no.2, it is stated that the petitioner's husband was granted leave once and he did not report to prison, pursuant to which, a case in F2 Police Station Crime No.354 of 2005 was registered against him under Section 224 IPC and he was arrested on 08.02.2005. Thereafter, he was convicted in C.C. No.10531 of 2005 for the offence under Section 224 IPC by the 14 Metropolitan Magistrate, Egmore, Chennai and sentenced to undergo rigorous imprisonment for one year under.

5. Under the Tamil Nadu Suspension of Sentence Rules, 1982, a prisoner will not be entitled to ordinary leave if he is involved in an offence to escape from detention. In this case, since the petitioner's husband had earlier escaped and was re-arrested only on 08.02.2005 after registration of the case in Crime No.354 of 2005 under Section 224 IPC and further, he was also convicted in C.C. No.10531 of 2005, as stated above, he will not be entitled to ordinary leave under the extant rules.

6. In view of the above, this Court does not find any infirmity in the impugned order passed by the third respondent. However, the petitioner's husband will be entitled to emergency leave on the grounds mentioned in Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982 and the authorities may consider the same as and when a request to that effect is made.

The writ petition stands disposed of with the above observations. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

cad

To

1. The Home Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009
2. The Deputy Inspector General of Prison
Egmore, Chennai - 600 008
3. The Superintendent of Prison
Central Prison - 1
Puzhal, Chennai 600 066
4. The Inspector of Police
K.K. Nagar Police Station
Chennai 600 078
5. The Public Prosecutor
High Court of Madras
Chennai 600 104.
6. The 14th Metropolitan Magistrate,
Egmore.
7. Do Through The Chief Judicial Magistrate,
Chennai.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.41552

W.P. No.21743 of 2016

VS (CO)
CA(22/07/2016)

सत्यमेव जयते

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