

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

W.P.No.41006 of 2015

Mrs.A.Aruna

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Prison IV) Department,
Fort St. George,
Chennai-9.
- 2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai-8.
- 3.The Superintendent of Central Prisons,
Central Prison-I (convict),
Puzhal, Chennai-66. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of a writ of mandamus directing the 2nd respondents to grant parole to the petitioner's husband Somu @ Somasundaram convict prisoner No.571, now confined in Central Prison-I, Puzhal, Chennai so as to assist the petitioner to undergo cardiac surgery on the basis of the petitioner's representation dated 22.12.2015 for a period of 15 days.

For Petitioner : Mr.G.Geremiah
For Respondents : Mr.P.Sanjay Gandhi, AGP

ORDER

This writ petition has been filed by the petitioner praying to direct the 2nd respondents to grant parole to the petitioner's husband Somu @ Somasundaram (Convict Prisoner No.571, now confined in Central Prison-I, Puzhal, Chennai), for a period of 15 days, so as to assist the petitioner to undergo cardiac surgery, on the basis of the petitioner's representation dated 22.12.2015.

2.It is stated by the petitioner that the petitioner's husband viz., Somu @ Somasundaram has been convicted for the offences under Sections 387, 365 & 347 IPC and sentenced to

undergo ten years rigorous imprisonment under Section 387 IPC, besides seven years under Section 365 IPC and three years under Section 347 IPC, by the judgment in S.C.No.87 of 2003 on the file of the learned Additional Sessions Judge, (FTC-I), Chennai. The appeal filed by the petitioner's husband in C.A.No.698 of 2004 was also dismissed by this Court on 06.10.2007. Now, the petitioner's husband has been confined in Central Prison, Puzhal, Chennai. It is further stated by the petitioner that the petitioner is suffering from cardiac problems and she has been undergoing treatment for over a year and that there is no one to assist her. Due to her deteriorating health condition, the petitioner's husband had submitted an application dated 18.12.2015 to the respondents for his release on parole for a period of 15 days to enable the petitioner to undergo the required surgery. The application dated 18.12.2015 submitted by the petitioner's husband was not considered by the respondents. Thereafter, the petitioner has also sent a representation dated 22.12.2015 to the respondents seeking for the grant of parole to her husband for a period of 15 days to enable the petitioner to undergo required surgery. Since the petitioner's representation was not considered by the respondents, the petitioner has come forward with the present petition before this Court.

3.The learned Additional Government Pleader has filed counter affidavit stating that the petitioner's husband has already availed emergency leave in the year 2015 on the following periods

- i)01.02.2015 - 06.02.2015 - Emergency leave by the Superintendent of Prisons.
- ii)15.03.2015 - 17.03.2015 - Emergency leave by the Superintendent of Prisons.
- iii)24.10.2015 - 25.10.2015 - Emergency leave by the Superintendent of Prisons.

Similarly, in this year 2016, the petitioner's husband can avail 15 days of emergency leave in the manner of 4 spells of 6+3+3+3 days, but the 3rd respondent has no authority to grant 15 days of leave in a single spell as sought for by the petitioner. Thus, learned Additional Government Pleader sought for dismissal of the writ petition.

3.Heard both sides. Considering the facts and circumstances of the case, I am of the opinion that the petitioner's husband could be granted six days leave (parole) to enable the petitioner to undergo the required surgery. Accordingly, this Court directs the 3rd respondent to grant leave to the petitioner's husband Somu @ Somasundaram (convict prisoner No.571), a period of six days ie., from 21.01.2016 to 26.01.2016, with armed escort. The convict Somu @ Somasundaram shall report before the 3rd respondent by 5.00 pm on 26.01.2016. The petitioner is directed to bear the expenses for giving protection to the petitioner's husband during the leave period. The 3rd respondent is also permitted

to impose reasonable conditions taking into account the security and return of the convict to the jail after the expiry of the leave period.

The criminal original petition is allowed as indicated above.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssv

To,

- 1.The Secretary to Government,
Home (Prison IV) Department,
Fort St. George,
Chennai-9.
 - 2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai-8.
 - 3.The Superintendent of Central Prisons,
Central Prison-I (convict),
Puzhal, Chennai-66.
 - 4.The Public Prosecutor,
Madras High Court, Madras.
- + 1 cc to Mr.B. Nambiselvan, Advocate SR.2479
+ 1 cc to Government Pleader sr.2689

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VS(CO)
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