



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P. (MD) No.12171 of 2016

Amuthapriya

... Petitioner

-vs-

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

2. The Assistant Commissioner of Police,
Tallakulam Law and Order,
Madurai City, Sellur Police Station (L&O),
(Crime No.1196/2013)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus, directing the respondent to grant 10 days leave (parole) to the petitioner's father, namely, Varatharajan, S/o. Arunachalam, who is undergoing sentence as 5 years convict in Central Prison, Madurai to participate her mother Meenakshi's funeral ceremony function.

For Petitioner : Mr.P.Vijaya Raghavan

For Respondents : Mr.D.Muruganandam
Addl. Govt. Pleader

O R D E R

The writ petition is filed for issuance of a Writ of Mandamus, directing the 1st respondent to grant 10 days leave / parole to the prisoner / petitioner's father, namely, Varatharajan, S/o. Arunachalam, who is in confinement on account of conviction for 5 years imposed by the Sessions Judge, Mahila Court, Madurai in Spl.S.C.No.7 of 2014. The petitioner's father is confined to the Central Prison, Madurai from 28.04.2016; that his wife, Meenakshi, died on 10.07.2016 and that he has to conduct funeral rituals to his wife. In this regard, a representation has been submitted to the jail authorities on 11.07.2016 by the daughter / petitioner, seeking parole for 10 days. Since the said representation was not considered, she is before this Court with the relief stated supra.



2. Learned Additional Government Pleader appearing for the respondents would submit that the factum of death of the petitioner's mother / prisoner's wife is true, but the leave sought for cannot be granted on account of the following reasons.

2.1 that the health condition of the petitioner's father is not good, as he is undergoing treatment at Rajaji Government Hospital, Madurai and therefore, his release on parole would bring health hazard to the petitioner's father.

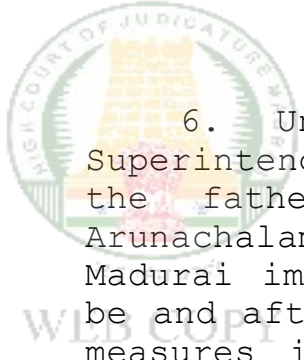
3. Per contra, learned counsel for the petitioner would submit that the petitioner's father is not in such a serious condition and therefore, he must be ordered to be released on parole.

3.1. For the prisoner, this would be the last opportunity to see the face of his wife and that should not be the lost opportunity. Therefore, even assuming that the health condition of the petitioner's father is not robust, it is for the hospital authorities to provide ambulance service along with necessary medial equipment, if need be, for the required period.

4. The 2nd contention of the learned Additional Government Pleader is that as per the provisions of Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982, the petitioner's father is not eligible for leave, as he has not completed five years of imprisonment from the date of initial imprisonment. This contention cannot be accepted for the reason that the said provision applies only for the grant of ordinary leave and not for the emergency leave. The relevant provision in respect of grant of Emergency Leave reads as follows:

"6. Grounds for the grant of emergency leave - Emergency leave may be granted for attending death or serious illness of father, mother, wife, husband, son, daughter, full brother or full sister or the wedding of son, daughter, full brother or full sister of the prisoner."

5. It is true that under the Tamil Nadu Suspension of Sentence Rules, 1982, the 1st respondent is the competent authority to grant emergency leave and under normal circumstance, this Court will not usurp the powers of the 1st respondent. But, in the present case on hand, directing the 1st respondent to consider the representation of the petitioner will be time-consuming, as the wife of the prisoner has expired even on 10.07.2016 itself. Therefore, considering the facts and circumstances and also taking into account the emergent situation, this Court is inclined to grant parole to the petitioner's father for four days, in lieu of the representation of the petitioner dated 11.07.2016.



6. Under such circumstances, the first respondent/The Superintendent, Central Prison, Madurai, is directed to release the father of the petitioner by name Varatharajan, S/o. Arunachalam, on emergency leave for four days from Central Prison, Madurai immediately on 11.07.2016 by relaxing the rules, if need be and after following the usual procedure and other safeguarding measures in accordance with the Prison manual and he shall be taken back to the Central Prison, Madurai before 6.00p.m. on 15.07.2016. The Superintendent of Central Prison, Madurai / First Respondent shall provide utmost escort to the Convict from the Central Prison, Madurai, from the time he leaves the Central Prison, Madurai and till such time he is taken back to the Central Prison, Madurai, on the said date and time as ordered by this Court. As the petitioner's father has been undergoing imprisonment from 28.04.2016, he cannot be directed to pay the costs. Hence, the Government shall bear the expenditure for providing escort to the father of the petitioner.

7. The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar (CS)

To

1. The Sessions Judge, Mahila Court, Madurai.
2. The Superintendent of Central Prison,
Central Prison, Madurai.
3. The Assistant Commissioner of Police,
Tallakulam Law and Order,
Madurai City, Sellur Police Station (L&O)

+2cc to M/s.P.Vijaya Raghavan, Advocate, Sr.No.35641

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JM/NGM-MP/SAR-II/11.07.2016/3P-6C

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