



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD)No.13666 of 2016

M.Muniyammal

... Petitioner

-vs-

1.The State represented by the Home Secretary
The Government of Tamil Nadu
Fort St. George, Chennai.

2.The Deputy Inspector General of Prisons,
Madurai Circle, Madurai.

3.The Superintendent of Central Prison,
Central Prison, Madurai,
Madurai District

4.The Inspector of Police,
Tirumangalam Taluk Police Station,
Madurai District

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents to allow the petitioners brother (Namely Marimuthu aged about 45 years) Life convict No.4066 to grant free ordinary leave or free emergency leave or free medical leave or prisoners childrens education leave or prisoners mothers death emergency leave any one of them may be granted for the period of 5 weeks from the dated on 02.08.2016 as request as per the representation of the petitioner dated 27.07.2016.

For Petitioner : Mr.S.Sivaprakash
For Respondents : Mr.D.Muruganandham
Addl. Govt. Pleader

O R D E R

The writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to allow the petitioner's brother, namely, Marimuthu aged about 45 years (Life Convict No.4066) to go on either under free ordinary leave or free emergency leave or free medical leave or prisoner children's education leave or emergency leave for the death of prisoner's mother for five weeks starting from 02.08.2016 on the basis of the representation of the petitioner dated 27.07.2016.



2.Mr.D.Muruganandham, learned Additional Government Pleader takes notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4. The representation dated 27.07.2016 of the petitioner, who is none other than the sister of the prisoner / Life Convict, seeking emergency leave for a period of five weeks, has not yet been considered by the respondents and hence, the petitioner is before this Court with this petition.

5. The learned Additional Government Pleader, while producing the order of rejection dated 30.07.2016, has submitted that as the prisoner has already availed 15 days emergency leave, the third respondent has no authority to grant emergency leave beyond the period of 15 days under a different break-up period and therefore, the request made by the petitioner has been rejected and the power is vested only with the Government to consider her request. He also relied upon Rules 13 and 34 of the Tamil Nadu Suspension of Sentence Rules, 1982 in support of his contention. He has further submitted that the report of the Probation Officer is awaited and on receipt of the same, further course of action will be taken.

5.1. It is relevant to extract Rules 13 and 34 of the Tamil Nadu Suspension of Sentence Rules, 1982, which read as under:

"13.Maximum period of emergency leave:

The total period of emergency leave to be granted to a prisoner by the Superintendents of Prisons or the Inspector - General of Prisons, as the case may be, shall be fifteen days in a year to be spread over four spells, subject to the maximum of six days in any one spell according to the need of the prisoner on the occasion and the remaining nine days in three spells each spell not exceeding three days at a time and the decision of the superintendent or the Inspector - General of prisons in deciding the duration of the spell shall be final. However, in exceptional cases, the Government may extend the period of emergency leave following the procedure prescribed in rule 34. Application for emergency leave for the fifth time in a year shall be submitted to Government for prior orders.

34. Extension of emergency leave and procedure:

<https://hcservices.ecourts.gov.in/hcservices/>

If a prisoner released on emergency leave wants extension of the period, he may submit a petition for the



same to the Government with a copy to the Superintendent of Prisons in good time before expiry of leave and the Government may pass such orders as they deem fit. If orders authorising the extension are not received before the expiry of his emergency leave, the prisoner shall report back to the prison. As soon as a prisoner released on emergency leave surrenders to the prison authorities, his original order or release and the bond executed by him shall become imperative. Where a prisoner who is released on emergency leave, surrenders to the prison authorities before his petition for extension of the period of emergency leave has been sanctioned, he shall not be released after such surrender without obtaining a fresh release order from the Superintendent of Prisons."

6. It is seen that the grant of emergency leave beyond the period of 15 days is not within the domain of the Superintendent of Prisons or Inspector General of Prisons, but within the domain of the Government and therefore, it is for the 1st respondent to consider the representation of the petitioner.

7. Under such circumstances, the 1st respondent is directed to consider the representation of the petitioner and pass suitable orders on the same on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order. No costs. Petition is disposed of.

Sd/
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar.

To:

- 1.The Home Secretary, The Government of Tamil Nadu
Fort St. George, Chennai.
 - 2.The Deputy Inspector General of Prisons, Madurai Circle, Madurai.
 - 3.The Superintendent of Central Prison, Central Prison, Madurai,
Madurai District
 - 4.The Inspector of Police, Tirumangalam Taluk Police Station,
Madurai District
- +1CC to M/S.S.Sivaprakash, Advocate, SR.No. 41517
+1CC to the Special Government Pleader, SR.No. 41202

W.P(MD) No.13666 of 2016

01.08.2016