



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.14447 of 2016

Rajasekar

...Petitioner

-vs-

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

2.The Additional Director General of
Prisons (HQRS),
CMDA Tower 11, No.1, Gandhi Irwin
Road, Egmore, Chennai 600 008.

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

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

5.The Inspector of Police,
E-1, Thideer Nagar Police Station,
Madurai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the respondents to grant medical leave to the petitioner by the 4th respondent in his order dated 05.08.2016 which expires on 09.08.2016 to extend the further period of 4 weeks from 09.08.2016 as per the representation of the petitioner dated 06.08.2016.

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

O R D E R

This Writ Petition has been filed seeking a direction to the fourth respondent to extend the parole granted to the petitioner on 05.08.2016, which expired on 09.08.2016, for a further period of four weeks.

2.Mr.D.Muruganandam, 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. It is seen that the petitioner, who is a life convict, has been granted emergency leave from 05.08.2016 to 09.08.2016 by the fourth respondent for getting treatment. As the treatment is yet to be completed, the petitioner is before this Court for getting extension of parole period.

5. The learned counsel appearing for the petitioner has drawn the attention of the Court to the Medical Certificate issued by the Jaisee Hospital Private Ltd., Madurai, whereunder the Doctor has expressed opinion that the patient requires "two weeks time of inpatient treatment."

6. The learned Additional Government Pleader submitted that the fourth respondent has no authority to extend parole beyond the period of 15 days under a different break-up period and therefore, the fourth respondent has rejected the request made by the petitioner. In support of his contention, he also relied upon Rules 13 and 34 of the Tamil Nadu Suspension of Sentence Rules, 1982,

6.1. 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:

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 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."

7. It is true that Government alone is empowered to consider the extension of emergency leave beyond the permissible period, but due to paucity of time, it may not be appropriate to direct the petitioner to approach the Government for his relief. The medical opinion rendered by the Doctor supports the claim of the petitioner to the effect that the petitioner is suffering from serious medical issues; that he is already undergoing treatment as an inpatient; and that he is in continued treatment and the break in treatment would brake the health of the petitioner. Therefore, the parole granted by the fourth respondent has to be extended at least for a period of two weeks for the purpose of facilitating the inpatient treatment.

8. Accordingly, the parole already granted upto 09.08.2016 is hereby extended for further period of two weeks i.e., upto 23.08.2016 and the petitioner is directed to surrender before the fourth respondent on 23.08.2016 before 05.00 p.m.

9. The Petition is ordered accordingly.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS)

To:

1. The Home Secretary, The Government of Tamil Nadu,
Fort St., George, Chennai.
2. The Additional Director General of Prisons (HQRS),
CMDA Tower 11, No.1, Gandhi Irwin Road, Egmore, Chennai-600 008.
3. The Deputy Inspector General of Prisons, Madurai Circle, Madurai.
4. The Superintendent of Prison, Central Prison, Madurai,
Madurai District.
5. The Inspector of Police, E-1, Thideer Nagar Police Station,
Madurai District.

+1cc to M/s.S.Siva Prakash, Advocate in SR.42966

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09.08.2016