



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

**THE HON'BLE DR.JUSTICE S.VIMALA**

**W.P(MD) No.16030 of 2016**

MerlinNimaldaselvi

... Petitioner

-vs-

1. The Additional Director General of Police (Prison),  
Thalaimuthu Natarajan Maligai,  
Egmore, Chennai-600 008.

2. The Superintendent of Prison,  
Central Prison,  
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the 2<sup>nd</sup> respondent herein in his proceedings No.13205/Tha.Ku 4/2016 dated 09.08.2016 and quash the same and consequently direct the respondents herein to grant parole to the petitioner's husband, namely, EBINIZER, S/o.Mariadoss, Life Convict No.12612 now confined at Central Prison, Tiruchirapalli, for a period of two weeks.

For Petitioner : Mr.K.M.Karunakaran

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

**O R D E R**

The writ petition has been filed, seeking to quash the impugned order dated 09.08.2016 passed by the 2<sup>nd</sup> respondent in No.13205/Tha.Ku 4/2016 with a consequential direction to the respondents herein to grant parole to the petitioner's husband, namely, EBINIZER, S/o.Mariadoss, Life Convict No.12612 now confined at Central Prison, Tiruchirapalli for a period of two weeks.

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



3. Learned counsel for the petitioner has submitted that on the complaint of Trans M1 heart ailment, the petitioner's mother-in-law (prisoner's mother) has been admitted in Sri Venkateswara Hospital, Lalgudi and a medical report dated 29.07.2016 has also been issued by the said hospital; that her condition is very serious; that the petitioner sent a detailed representation dated 03.08.2016 to the respondents for releasing her husband on parole so as to enable him to see his mother; and that the said representation was rejected on the ground that the appeal preferred by the prisoner before the Hon'ble Apex Court is pending.

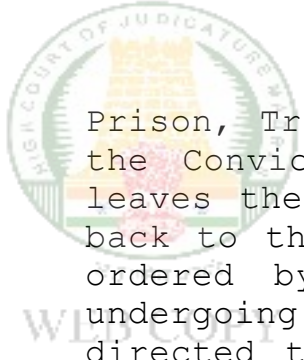
3.1. Learned counsel for the petitioner has further submitted that the petitioner's husband has been confined in jail for the last seven years; that in all these years, he never opted for grant of parole and that the present request of the petitioner is really bonafide and genuine and thus the same may be considered on humanitarian grounds.

3.2. Learned counsel for the petitioner has drawn the attention of this Court to Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, which deals with the grounds for the grant of ordinary leave as follows:

"6. Emergency Leave may be granted for attending Death or Serious Illness of father / mother / wife / husband / son / daughter / full brother / full sister or wedding son / daughter / full brother or full sister of the prisoner."

3.3. In support of his submission that pendency of appeal before the Hon'ble Supreme Court is not a bar to grant parole, learned counsel for the petitioner has also relied upon a decision of this Court in the case of Devaki vs. The Superintendent of Central Prison, Trichy [W.P. (MD) No.9574 of 2014] decided on 23.06.2014, wherein this Court held that pendency of appeal before the Supreme Court is not a ground to reject the ordinary leave and granted leave for 10 days and therefore, learned counsel for the petitioner urged this Court to grant leave to the petitioner's husband.

4. Considering the overall totality of the circumstances and taking into account the earlier decision of this Court, referred to above, this petition is allowed and the impugned order dated 09.08.2016 is set aside. The second respondent/The Superintendent of Prison, Central Prison, Trichy, is directed to release the husband of the petitioner by name Ebinizer, S/o.Mariadoss, Life Convict No.12612, on parole for ten days, commencing from 01.09.2016 to 10.09.2016 after following the usual procedure and after ensuring safeguarding measures in accordance with the Prison Manual and he shall be taken back to the Central Prison, Trichy before 6.00p.m. on 10.09.2016. The Superintendent of Central



Prison, Trichy / Second Respondent shall provide utmost escort to the Convict from the Central Prison, Trichy, from the time he leaves the Central Prison, Trichy and till such time he is taken back to the Central Prison, Trichy, on the said date and time as ordered by this Court. As the petitioner's husband has been undergoing imprisonment for the past seven years, he cannot be directed to pay the costs. Hence, the Government shall bear the expenditure for providing escort to the husband of the petitioner.

Sd/  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The Additional Director General of Police (Prison),  
Thalaimuthu Natarajan Maligai,  
Egmore, Chennai-600 008.

2. The Superintendent of Prison,  
Central Prison,  
Trichy.

+1 cc to MR.K.M.KARUNAKARAN, Advocate Sr.No.48458

+1 cc to Special Government Pleader Sr.No.48614

W.P. (MD) No.16030 of 2016  
30.08.2016

SMA/DB/SAR-CO/31/08/2016 :3P/5C