



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD) No.16047 of 2016

T.Balasubramanian

... Petitioner

-vs-

1.The Secretary to the Government

Home Department,
Fort St. George,
Chennai-600 009.

2.The Additional Director General of Police (Prison),

Thalaimuthu Natarajan Maligai,
Egmore,
Chennai-600 008.

3.The Superintendent of Prison,

Central Prison,
Trichy.

... Respondents

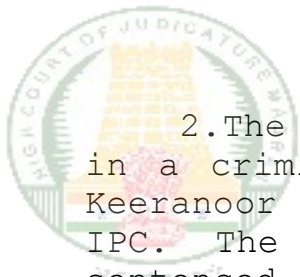
Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order, issued by the 3rd respondent herein, in his proceedings No.13868/Tha.Ku4/2016, dated 17.08.2016 and quash the same and consequently, direct the respondents herein to grant leave on parole to the father of the petitioner, namely Thangaraj son of Chinnakannu, Life Convict No.78449, who is now confined at Central Prison, Tiruchirappalli, for a period of one month and pass such other orders.

For Petitioner : Mr.M.Palani Raja

For Respondents : Mr.K.P.Krishna Das
Government Advocate

O R D E R

This writ petition is filed to quash the order of the 3rd respondent passed in his proceedings No.13868/Tha.Ku4/2016, dated 17.08.2016 and for a direction to the respondents to grant leave on parole to the father of the petitioner, namely Thangaraj, son of Chinnakannu, Life Convict No.78449, who is now confined at Central Prison, Tiruchirappalli, for a period of one month.



2.The case of the petitioner is that his father was implicated in a criminal case in Crime No.119 of 1986 on the file of the Keeranoor Police station for the offence under Section 302 r/w 34 IPC. The petitioner's father was convicted by the trial court and sentenced to life imprisonment and the conviction was confirmed by the High Court in CrI.A.No.1007 of 1986 and the Apex Court in Appeal No.575 of 1996 and he has been in incarceration for more than 13 years and he has not violated the conditions and rules prescribed in the Tamil Nadu Prison Manual.

3.The petitioner would further state that his sister, namely Priya is getting married on 14.09.2016 and for conducting the marriage, the presence of the petitioner's father is necessary. So, he sent a representation to the respondents on 12.08.2016, however, it was rejected on the ground that he has already availed the leave as per the rules of the Tamil Nadu Prison Manual.

4.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

5.Mr.M.Palani Raja, learned counsel for the petitioner would submit that although the petitioner's father has availed the leave prescribed in Rules 5 and 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, he could be granted ordinary leave as per Section 20 of the Rules.

6.Per contra, learned Government Advocate would contend that the impugned order does not suffer from any illegality and prayed for the dismissal of the writ petition.

7.Rule 20 reads as follows:-

"20.Grounds for the grant of ordinary leave:
The grounds for the grant of ordinary leave to a prisoner shall be

i)to make arrangement for the livelihood of his family and for the settlement of life after release.

ii)to make arrangement for the admission of the children in the school or college.

iii)construction or repairing the home-stead

iv)to make arrangements or to participate in the marriage of sons, daughters, full brothers or full sisters;

v)settling family disputes like partition

vi)agricultural operations like sowing, harvesting etc.,



vii)any other extraordinary reasons."

8.The petitioner has enclosed the marriage invitation of his sister, namely Priya. The marriage is scheduled on 14.09.2016. The Village Administrative Officer of Melaputhuvaiyal, Kulathur Taluk, Pudukkottai has also issued a certificate stating that the petitioner's sister is getting married on 14.09.2016. In W.P.(MD) No.16459 of 2016, this court has considered the Rule 20 and granted leave for the celebration of the marriage of the daughter of the life convict.

9.In the instant case, it is not disputed by the respondents that the life convict daughter's marriage is scheduled to be held on 14.09.2016. Rule 20 deals with grant of leave on special occasions, including making arrangement and participation in the marriage of sons and daughters of the life convicts. However, the impugned order came to be passed without reference to the relevant Rule. Hence, the impugned order suffers from illegality and the same is liable to be set aside and it is hereby set aside.

10.In the result, this writ petition is allowed of with a direction to the 3rd respondent to release the petitioner's father on parole, namely Thangaraj, son of Chinnakannu, Live Convict No.78449, for a period of 3 days, commencing from 13.09.2016 to 15.09.2016 after following the usual procedure and after ensuring the safeguarding measures in accordance with the Prison manual and he shall be taken back to the Central Prison, Trichy on or before 06.00 p.m on 15.09.2016. The Superintendent of Central Prison, Trichirapalli, shall provide utmost escort to the Life Convict from the Central Prison, Trichirapalli, from the time he leaves the Central Prison,Trichirapalli and till such time, he is taken back to the Central Prison, Trichirapalli, on the said date and time as ordered by this Court. The petitioner shall bear the expenditure for providing escort to his father.

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

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To,

1.The Secretary to the Government
Home Department,
Fort St. George,
Chennai-600 009.

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

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

+1cc to M/s.K.M.Karunakaran, Advocate SR.NO.51368
+1cc to special Government Pleader SR.No.51468

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W.P. (MD) No.16047 of 2016
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