



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.16409 of 2016

Jeba Stella

... Petitioner

-vs-

1. The Additional Director of General of Police (Prisons)
Gandhi Irvin Road,
Egmore, Chennai.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the impugned order passed by the 2nd respondent in No.14353/Thaku44/2016 dated 24.08.2016 and quash the same and consequently directing the 2nd respondent to grant 10 days leave (parole) to the petitioner's brother, namely, Danielraj, S/o.Jeyaseelan, who is undergoing sentence as 8 years in Central Prison, Trichy to make arrangements as well as to attend his sister's marriage.

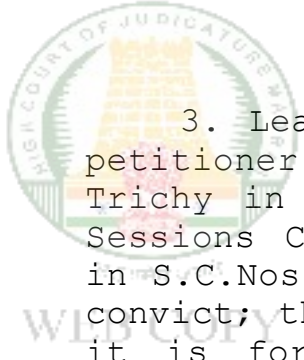
For Petitioner : Mr.M.Subash Babu

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 24.08.2016, passed in No.14353/Thaku44/2016 by the 2nd respondent herein, by which, the petitioner's request for parole to her brother was declined, on the ground that several cases are pending trial against the petitioner. The petitioner also sought a consequential direction to the 2nd respondent to grant 10 days' leave (parole) to her brother, namely, Danielraj, S/o.Jeyaseelan, who is undergoing 8 years sentence in Central Prison, Trichy to make arrangements as well as to attend her marriage.

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 the petitioner's brother has been confined in the Central Prison, Trichy in connection with two cases, in which learned Assistant Sessions Court, Perambalur imposed 8 years Rigorous Imprisonment in S.C.Nos.37 and 38 of 2008 on 04.08.2014; that he is not a life convict; that he has completed 7 years in the prison from 2008 and it is for the first time, he seeks parole, as his sister's marriage is scheduled to be held on 05.09.2016 and being brother, he has to make financial arrangement for his sister's marriage; that the prisoner has submitted a representation dated 23.08.2016 to the 3rd respondent for grant of parole to him, which has been rejected by the impugned order and hence, the petitioner is before this Court with the relief stated supra.

3.1. Learned counsel for the petitioner has drawn the attention of this Court to Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982, which deals with the grounds for the grant of ordinary leave 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 etc.,

vi) agricultural operations like sowing, harvesting etc.

vii) any other extraordinary reasons."

3.2. In support of his submission that pendency of cases is not a bar for the authorities to consider grant of parole, learned counsel for the petitioner has also relied upon a decision of this Court in the case of **M.Mareeswari vs. The Principal Secretary to the Government of Tamil Nadu and others (W.P.(MD) No.10033 of 2016) decided on 24.06.2016**, in which this Court has interpreted the relevant provisions of the Tamil Nadu Suspension of Sentence Rules, 1982 and has granted parole to the petitioner therein and therefore, learned counsel for the petitioner urged this Court to grant leave to the petitioner's brother.

4. Considering the totality of the circumstances and taking into account the earlier decision of this Court, referred to above, the impugned order dated 24.08.2016 (declining parole on the ground of pending cases) is set aside. The second respondent, the Superintendent of Prison, Central Prison, Trichy, is directed to release the brother of the petitioner, namely,



Danielraj, S/o.Jeyaseelan, on ordinary leave for ten days, commencing from 02.09.2016 to 11.09.2016 after following the usual procedure and after ensuring safeguarding measures in accordance with the Prison manual and and he shall be taken back to the Central Prison, Trichy before 6.00p.m. on 11.09.2016. The Superintendent of Central Prison, Trichy / Second Respondent shall provide escort in civil dress 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 brother has been undergoing imprisonment from the year 2008, he cannot be directed to pay the costs. Hence, the Government shall bear the expenditure for providing escort to the husband of the petitioner.

The writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To:

1. The Additional Director of General of Police (Prisons)
Gandhi Irvin Road,
Egmore, Chennai.
2. The Superintendent of Central Prison,
Central Prison,
Trichy District.

+1 CC to M/s.M.SUBASH BABU, Advocate, SR No.48977

+1 CC to THE SPECIAL GOVERNMENT PLEADER , SR No.49141

W.P. (MD) No.16409 of 2016
31.08.2016

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