



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD) No.17113 of 2016

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N.Ramalakshmi

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. By the Deputy Inspector General of Prison,
Madurai Range,
Central Prison Campus,
Arasaradi, Madurai-625 016.

2.The Superintendent of Prison,
Central Prison,
Arasaradi,
Madurai.-625 016.

... 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 2 weeks emergency leave under the provision of the Tamil Nadu Suspension of Sentences Rules 1982 to the petitioner's husband K.Nagasamy S/o.Krishnathevar, C.P.No.5014 aged 55 years presently confined at Madurai Central Prison to enable him to take part in the final rites customary ceremony of his mother Nagammal, who expired on 04.09.2016.

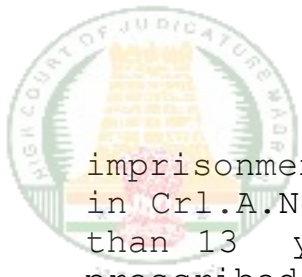
For Petitioner : Mr.V.Santhakumaresan

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

O R D E R

This writ petition is filed for issuance of a Writ of Mandamus, directing the respondents to grant 2 weeks emergency leave under the provision of the Tamil Nadu Suspension of Sentences Rules 1982 to the petitioner's husband K.Nagasamy S/o.Krishnathevar, C.P.No.5014 aged 55 years presently confined at Madurai Central Prison to enable him to take part in the final rites customary ceremony of his mother Nagammal, who expired on 04.09.2016.

2.The case of the petitioner is that her husband was implicated in a criminal case in Crime No.734 of 2007, on the file of the Anna Nagar Police Station, Madurai District for the offence under Sections 302 and 148 IPC. The petitioner's husband was convicted by the trial court and sentenced to life



imprisonment and the conviction was confirmed by the High Court in Crl.A.No.373 of 2009 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.

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3.The petitioner would further state that her mother-in-law, namely K.Nagammal has expired on 04.09.2016 and to enable him to take part in the customary ceremony of his mother K.Nagammal, the presence of the petitioner's husband is necessary.

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

5.The Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'the Rules') deals with matters relating to grant of ordinary and emergency leave. Rule 6 of the Rules provides for grant of emergency leave. According to the said provision, emergency leave would be granted for attending death or serious illness of father, mother, wife, husband, son, daughter, full brother or full sister or the wedding of son, daughter, full brother or full sister of the prisoner.

6.The petitioner is a Hindu. As per the Hindu Custom, on sixteenth day, certain ceremonies have to be performed. The provision regarding emergency leave for attending the death should include the death ceremony also. The request of the petitioner now is only to attend the final ceremonies in honour of the departed soul.

7.Considering the facts and circumstances of the case, this writ petition is allowed with a direction to the second respondent to release the petitioner's husband on parole, namely K.Nagasamy, Son of Krishnathevar, C.P.No.5014, for a period of 3 days, commencing from 18.09.2016 to 20.09.2016 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, Madurai on or before 06.00 p.m on 20.09.2016. The Superintendent of Central Prison, Madurai, shall provide utmost escort to the Life Convict from the Central Prison, , Madurai, from the time he leaves the Central Prison, Madurai and till such time, he is taken back to the Central Prison, Madurai, on the said date and time as ordered by this Court.

8.The Village Administrative Officer, 50, Thallakulam, Madurai North and the Revenue Inspector, Sakkimangalam have given service certificate stating that the life convict K.Nagasamy is living below the poverty line. It is not seriously disputed by the learned Government Advocate. So, he cannot be directed to pay the



costs. The Government shall bear the expenditure for providing escort to the husband of the petitioner. No costs.

Sd/

Assistant Registrar (Records)

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/TRUE COPY/

Sub Assistant Registrar

To

1. The Deputy Inspector General of Prison,
Madurai Range,
Central Prison Campus,
Arasaradi, Madurai-625 016.

2. The Superintendent of Prison,
Central Prison,
Arasaradi,
Madurai.-625 016.

+1cc to M/S.V.Santhakumaresan, Advocate in SR.No.52810

+1cc to Special Government Pleader in SR.No.51832

W.P. (MD) No.17113 of 2016
16.09.2016

am

PA/SS-3/SAR 3/16.09.2016/3P/5C (IT)