



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD) No.23677 of 2016

Vairam

... Petitioner

-vs-

1.The Superintendent of Prison,
Central Prison, Madurai.

2.The Inspector of Police,
Perunkudi Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, to direct the 1st respondent to release the petitioner son namely Kallanai @ Valakkai Ayyanar remanded prison at Central Prison, Madurai, in Crime No.350 of 2016 on the file of the 2nd respondent in Parole for a period of one week from today for attending the funeral ceremonies and last rites of his late father namely Lakshmanan son of Alagar at Perunkudi, Madurai District.

For Petitioner : Mr.S.Muniyandi

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

O R D E R

This writ petition is filed to direct the 1st respondent to release the petitioner's son, namely Kallanai @ Valakkai Ayyanar, remanded prisoner at Central Prison, Madurai, in Crime No.350 of 2016 on the file of the 2nd respondent in Parole for a period of one week from today for attending the funeral ceremonies and last rites of his late father, namely Lakshmanan, son of Alagar at Perunkudi, Madurai District.

2.The case of the petitioner is that her son was implicated in a criminal case in Crime No.350 of 2016 on the file of the 2nd respondent police for the offence under Sections 147, 148, 302, 506(ii) IPC and Section 3(i)(r), 3(ii)(V) of SC/ST Act @ 147, 148, 302, 506(ii), 120(B) IPC and Section 3(i)(r), 3(ii)(V) of SC/ST (POA) Amendment Act. The petitioner's son was arrested by the 2nd respondent, on 07.11.2016 and he is in judicial custody till date.



3.The petitioner would further state that her husband died on 02.12.2016 and the petitioner is the only male to the deceased, so, he has to perform the funeral function of his father, namely Lakshmanan and the presence of his son is necessary for funeral function of his father scheduled to be held on 03.12.2016.

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

5.Mr.S.Muniyandi, learned counsel for the petitioner would submit that the petitioner's son is eligible to avail the leave prescribed in Rules 5 and 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, so, he could be granted ordinary leave as per Section 20 of the Rules.

6.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 etc.,

vi)agricultural operations like sowing, harvesting etc.,

vii)any other extraordinary reasons."

7.The learned Government Advocate (Criminal side) would submit that the petitioner is a rowdy element and totally eight cases are pending against him, out of which, 3 cases are 307 IPC and 3 cases are 302 IPC.

8.In the instant case, it is not disputed by the respondents that the father of prisoner died on 02.12.2016 and the funeral ceremony is to be held on 03.12.2016. Rule 20 deals with grant of leave on special occasions, including participation in the funeral ceremonies of the prisoner.



9. In view of the above facts, this writ petition is allowed with a direction to the 1st respondent to release the petitioner's son on parole, namely Kallanai @ Valakkai Ayyanar, son of Lakshmanan, detained at Central Prison, Madurai for 11 hours, commencing from 07.00 am, on 03.12.2016 to 06.00 pm on 03.12.2016 after following the procedure to be adhered to 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 03.12.2016. The Superintendent of Central Prison, Madurai, shall provide utmost escort to the petitioner's son 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. The petitioner shall bear the expenditure for providing escort to her son.

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

Sd/-

Assistant Registrar (CS II)

/True Copy/

Sub Assistant Registrar

To,

1. The Superintendent of Prison,
Central Prison, Madurai.

2. The Inspector of Police,
Perunkudi Police Station,
Madurai District.

3. The Addl Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Muniyandi, Advocate in SR No.78664

W.P. (MD) No.23677 of 2016
02.12.2016

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