



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P.(MD) No.6924 of 2016

J.Masila Mary

... Petitioner

-vs-

1. The Additional Director General of Prison,
Egmore, Chennai-600 008.

2. The Deputy Inspector General (Prison),
Madurai Range, Central Prison, Madurai.

3. The Superintendent,
Central Prison, Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondents more especially to the third respondent to grant parole to the petitioner's elder son Jhon Soosai Navis Manala aged about 37 years (C.P.No.8316) on Parole for 15 days to the marriage of the petitioner's younger son betrothal scheduled on 12.04.2016 and marriage on 14.04.2016, by considering the representation of the petitioner dated 05.04.2016.

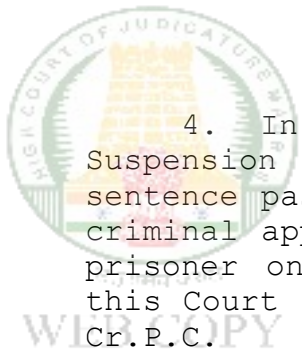
For Petitioner : Mr.M.Jegadeeshpandian
For Respondents : Mr.D.Muruganandam,
Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking a direction to the respondents more especially to the third respondent to grant parole to the petitioner's elder son Jhon Soosai Navis Manala aged about 37 years (C.P.No.8316) on Parole for 15 days to the marriage of the petitioner's younger son betrothal scheduled on 12.04.2016 and marriage on 14.04.2016, by considering the representation of the petitioner dated 05.04.2016.

2. Mr.D.Muruganandham, learned Additional Government Pleader takes notice for the respondents.

3. It is seen that the son of this petitioner was convicted and sentenced by the Special Court for NDPS Act cases in C.C.No.93 of 2009 on 30.12.2013 and his appeal in CrI.A.(MD)No.66 of 2014 is pending before this Court. While so, the petitioner has approached this Court for parole on the ground that the marriage of the brother of the convict is scheduled to be held on 14.04.2016.



4. In the considered opinion of this Court, the Tamil Nadu Suspension of Sentence Rules will apply only when the conviction and sentence passed on the accused has been confirmed in the appeal. When a criminal appeal is pending, it is not open to the Authorities to release prisoner on parole, since it will be amount to usurping the powers of this Court for grant of suspension of sentence and bail under Section 389 Cr.P.C.

5. The learned Counsel for the petitioner submitted that under NDPS Act, there is no suspension of sentence.

6. This Court is not inclined to accept this submission. The Honourable Supreme Court in *Dadu @ Tulsidas Vs. State of Maharashtra* reported in 2000(8) SCC 437 has clearly held that the power of this Court to grant suspension of sentence has been taken away by Section 32 (A) NDPS Act, but bail could be granted only subject to the provisions of Section 37 of NDPS Act.

7. In the result, this Writ Petition is devoid of merits and the same is dismissed. No Costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To:

1. The Additional Director General of Prison,
Egmore, Chennai-600 008.
2. The Deputy Inspector General (Prison),
Madurai Range,
Central Prison, Madurai.
3. The Superintendent,
Central Prison, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 20000

SSL

TE/AN-MP/ : 25/04/2016 : 2P/6C

W.P. (MD) No.6924 of 2016
07.04.2016