

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2148 of 2017
and
Crl.M.P.Nos.14208 and 14209 of 2017

Anandashree Petitioner/Wife of the Detenu

-vs-

- 1.The Secretary to the Government,
Secretariat,
Chennai - 600 009.
- 2.The Superintendent of Prison,
Central Prison Puzhal I,
Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Cuddalore. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to release the petitioner's husband Magesh, S/o. Ayyapillai convict prisoner C.T.No.4459 for one month parole now confined in the Central Prison, Cuddalore.

For Petitioner : Mr.S.Senthil Vel
For Respondents: Mr.V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1.The petitioner, via, the captioned petition, has sought a direction, qua, the respondents for release of the detenu/Mr.Magesh, on parole, for a period of one (1) month.

1.1.The petitioner is the wife of the detenu/Mr.Magesh.

2.The petitioner says that the detenu/Mr.Magesh, is carrying a stone in the kidney, which requires treatment. The parole is sought, according to the petitioner, for this reason.

3.It appears that the petitioner had also sent representations in that behalf, on 28.10.2017 and 02.11.2017, wherein, inter alia, a request was also made that the petitioner should be shifted to the Central Prison No.I, Puzhal, Chennai.

4.Notice in this petition was issued on 16.11.2017, where upon, a counter affidavit, has been filed on behalf of the State.

5.In the Counter affidavit, the State, inter alia, takes a stand that the detenu was admitted for treatment of renal stone in Government Stanley Hospital on 24.10.2017 and because he refused to undergo surgery, he was released on 25.10.2017, albeit, against medical advice.

5.1.Furthermore, the State, avers that the detenu was transferred to Central Prison, Cuddalore from Central Prison No.I, Puzhal, Chennai, due to administrative reasons, pursuant to the order issued in that regard by the Additional Director General of Police and the Inspector General of Prisons dated 26.10.2017.

6.We are informed that, after filing of the counter affidavit, at request of the petitioner, for the purpose of treatment, the detenu was temporarily, lodged in Central Prison No.I, Puzhal, Chennai.

7.Furthermore, insofar as the leave granted to the detenu is concerned, the State, avers that, at present, the detenu is entitled to only three (3) days of emergency leave. In otherwords, apart from, three (3) days of leave available to the detenu in 2017, all other leave has been exhausted by the detenu.

7.1.We had put this aspect both to the counsel for the petitioner as well as the learned Additional Public Prosecutor.

7.2.Counsel for the petitioner has returned with instructions that his client would want to avail of emergency leave of three (3) days, to undergo, private treatment for renal stone.

7.3.Furthermore, counsel for the petitioner says that, he would like to be released, albeit, on leave from 26.12.2017.

8. Accordingly, the detenu, will be released on parole, for a period of three (3) days, in view of the stand taken by the State, that the said period is available to the credit of the detenu. The detenu will be accompanied by police escort, albeit, in civil dress.

8.1. The detenu, will surrender on 29.12.2016 at 5.30 p.m., on the expiry of the leave period, before the Jail Superintendent, Central Prison No.I, Puzhal, Chennai.

9. The petition, is accordingly, disposed of.

10. Consequently, connected pending criminal miscellaneous petitions shall stand closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to the Government,
Secretariat,
Chennai - 600 009.
2. The joint secretary,
Public (law and order) department,
Secretariat, Chennai 600 009.
3. The Superintendent of Prison,
Central Prison Puzhal I,
Chennai.
4. The Superintendent of Prison,
Central Prison,
Cuddalore.
5. The Public Prosecutor,
Madras High Court,
Madras.
+1cc to Mr.S.SURESH, Advocate, S.R.No. 91212/17

H.C.P.No.2148 of 2017
and CrI.M.P.Nos.14208 and 14209 of 2017

TR(22/12/2017)