

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE M.S.RAMESH

W.P.No.22310 of 2017

Shanthi

.. Petitioner

Vs

1. State of Tamil Nadu
Rep.by its Secretary to Government,
Home Department,
Secretariat, Chennai 600 009.
 2. The Additional Director of Police/
Inspector General of Prison,
Gandhi Irwin Road,
Egmore, Chennai 600 008.
 3. The Superintendent of Prison,
Central Prison, Vellore.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus directing the respondents to release the petitioner's husband Mr.Ammasi (Ct.No.24469) now confined in Central Prison, Vellore on ordinary leave for 15 days for the purpose of selling the property for the petitioner's family needs and educational expenses of the child.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.K.Dhananjeyan
Spl.Govt.Pleader

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O R D E R

The petitioner in the present petition seeks direction to the respondents to release the petitioner's husband Mr.Ammasi (Ct.No.24469) now confined in Central Prison, Vellore on ordinary leave for 15 days for the purpose of selling the property for the petitioner's family needs and educational expenses of the children.

2. The learned Special Government Pleader objected the said petition stating that under Rule 22 (1) of the Tamil Nadu Suspension of Sentence Rules, 1982 the petitioner should have completed three years of imprisonment from the date of initial imprisonment to become eligible for ordinary leave and since the petitioner's husband has completed only one year, four months and nineteen days of imprisonment as on date, he is not eligible for grant of ordinary leave.

3. In these circumstances, where there are genuine cases in which a leave may be required like on medical grounds, condolences in the family, marriage etc., the provision for ordinary emergency leave is also provided under the said Rules. In the present case, the petitioner's family is suffering from financial crisis and in order to meet their daily needs and educational expenses of their children, it has become necessary to sell their family property for which the presence of the accused is required for registration.

4. The circumstances indicated in the Tamil Nadu Suspension of Sentence Rules, which could be deemed as an emergency situation warranting emergency leave are only directory in nature and not exhaustive. Financial crisis, at times, may become stringent to affect the entire family and the education of the children and selling of the property to meet the exigency is vital. In my view, the financial crisis in meeting the educational expenses and other family needs can also be deemed to be as an emergency which requires consideration for emergency leave.

5. The procedure for registration of sale of family property may not require more than two days or three and hence the petitioner's request of 15 days leave for her husband cannot be granted. However, leave could be restricted to 3 days alone to enable the petitioner and her husband to sell and register the property. It is needless to point out that identification of a prospective purchaser, etc can be made even without the petitioner's husband's presence. Accordingly, the 3rd respondent is directed to release the petitioner's husband on emergency leave for three days i.e., from 01.11.2017 to 03.11.2017. The petitioner shall positively surrender before the second respondent before 12 Noon of 04.11.2017. The expenses for security escort accompanying the petitioner's husband, shall be borne by the petitioner. The second respondent is also at liberty to impose such other conditions, if any, during the leave.

6. With the above observations and directions, the Writ Petition is partly allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Home Department,
Secretariat, Chennai 600 009.

2. The Additional Director of Police/
Inspector General of Prison,
Gandhi Irwin Road,
Egmore, Chennai 600 008.

3. The Superintendent of Prison,
Central Prison, Vellore.

4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.S.Saravanakumar, Advocate sr.74903

+1cc to Government Pleader sr.75313

सत्यमेव जयते

W.P.No.22310 of 2017

cp(co)
ss(31/10/2017)

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