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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.19528 of 2017

Azhakar @ Palazhkar

... Petitioner

-Vs-

1. State of Tamil Nadu  
rep. by the Secretary to Government,  
Home (Prison IV) Department,  
Secretariat Fort. St. George,  
Chennai - 600 009

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

3.The Superintendant,  
Central Prison, Vellore.

4.The Inspector of Police,  
B1, Vilakkuthoon Police Station,  
Maudrai.  
(Crime No. 1437 of 1989)

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent no.3 to extend the parole granted to the petitioner viz., Azhakar @ Palazhkar, S/o. Chithayya L.C.T.No.24503 for the period of 30 days.

For Petitioner : Mr. R. Venkatesan

For Respondents : Mr.D.Muruganantham  
Additional Government Pleader.

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O R D E R

This Writ Petition is for issuing a Writ of Mandamus directing the respondent no.3 to extend the parole granted to the petitioner viz., Azhakar @ Palazhkar, S/o. Chithayya L.C.T.No.24503 for the period of 30 days.



2. The petitioner states that he has been behind the bars for more than 27 years as he was granted the punishment of life imprisonment in connection with case in S.C.No.215 of 1990. Though the petitioner was granted ordinary leave of 30 days by the 3<sup>rd</sup> respondent, the grievance of the petitioner is that the period of parole should be extended for another 30 days, as the purpose for which the leave was granted earlier has not been fulfilled by the petitioner. It is not in dispute that the petitioner has made a ground for grant of ordinary parole leave for a period of 30 days and that therefore, permission was granted to the petitioner for availing ordinary parole leave for a period of 30 days. He has made a representation to the third respondent for the grant of extension of ordinary parole leave for another period of 30 days.

3. In support of his contention the learned counsel appearing for the petitioner relied on Rule 22 of Tamil Nadu Suspension of Sentence Rules 1982, which is extracted hereunder:-

22. Eligibility for ordinary leave: (1) No prisoner shall be granted ordinary leave unless he has been sentenced by a Court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed (three years) of imprisonment from the date of initial imprisonment.

(2) The period of ordinary leave shall not be exceed one month at a time unless it is extended by Government.

(3) The prisoner shall be granted the second spell of leave not exceeding one month after the completion of two years of imprisonment from the date on which he returns from the last ordinary leave.

(4) In cases of prisoners who have got a balance of three years to serve ordinary leave not exceeding one month for each of three years, the year being calculated from the date of his return to prison from last leave, shall be granted so as to enable them to make arrangements for settling the family life after release.

4. From Rule 22(2) of Tamil Nadu Suspension of Sentence Rules 1982, it is clear that ordinary leave beyond one month can be extended only by Government. In this case, the petitioner has not made a representation to the Government. Merely because, the petitioner is able to point out some reasons or justification for grant of ordinary leave, the respondents cannot pass order or grant leave contrary to Rules, since the third respondent has no power or authority to grant ordinary parole leave for more than 30 days. It is noted that Rule 22(3) Tamil Nadu Suspension of Sentence Rules 1982, also makes it clear that the prisoner is in eligible to file second spell of leave not exceeding one month before the completion of two years of imprisonment from the date on which he returns from the last ordinary leave.



5. Hence, there is no scope for maintaining this Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. However, liberty is preserved to the petitioner to approach the Government for extension of parole leave beyond the period of 30 days.

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Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1 The Secretary to Government,  
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2.The Additional Director General of Prison,  
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4.The Inspector of Police,  
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Maudrai.

+1CC to Mr.R.Venkatesan, Advocate, SR.No. 84029

+1CC to the Special Government Pleader SR.No.84123

W.P. (MD) No.19528 of 2017

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SDS/SKN RSK/SAR 1/03.11.2017/3P/7C