

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

AND

THE HON'BLE MRS. JUSTICE R.HEMALATHA

Habeas Corpus Petition No.1010 of 2018

B.Adhilakshmi

... Petitioner /
Wife of the detainee

versus

1. The State of Tamil Nadu, Represented by its Secretary,
Home Department, Fort St. George, Chennai 600 009
2. The Director General of Prisons,
Egmore, Chennai 600 008
3. The Superintendent of Central Prison,
Vellore Central Prison, Vellore District ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to direct the respondents to grant two months ordinary leave to the Convict B.Baskaran, Son of Balakrishnan, C.T.No.20806 to take better treatment at MIOT Hospital, Chennai, now confined at Central Prison, Vellore.

For Petitioner : Mr. R.Sankarasubbu
For Respondents : Mr. R.Prathap Kumar, APP.,

O R D E R

(Order of the Court was made by S.Vimala, J.,)

This Habeas Corpus Petition has been filed by the petitioner (wife of the detainee) seeking two months ordinary leave for her husband (who is a Life Convict) namely, B.Baskaran, Son of Balakrishnan, C.T.No.20806, who has been convicted for the offence under Sections 302, 376 (2) and 201 IPC and sentenced to undergo imprisonment for life.

2. It is stated by the petitioner / wife of the detainee that her husband has been maintaining good conduct and in fact, he was permitted to work outside the prison premises and on one such occasion, on 17.05.2018, while her husband after finishing his day's work was coming towards prison near Prison Gate Vellore, he met with an accident involving a two-wheeler and due to the said accident, he had fallen down and sustained grievous injuries all over the body. It is further stated that the petitioner's husband was admitted as an inpatient at Government Hospital, Adukkuparai, Vellore District and underwent an operation on 17.05.2018 and thereafter still his health

condition has not been improved and therefore, two months parole has to be granted to the detenue on humane considerations.

3. The third respondent / Superintendent of Prisons, Central Prison, Vellore, has filed a counter affidavit stating that as per Rule 22 (3) of the Tamil Nadu (Suspension of Sentence) Rules, 1982, (in short "the Rules") a convict is eligible for second spell of 30 days of ordinary leave only after the completion of two years from the date of return from such ordinary leave. It is pointed out that the last ordinary leave was taken by the petitioner's husband, for a period of thirty days, starting from 24.09.2017 to 25.10.2017 and therefore, only after the expiry of two years from 25.10.2017, the detenue would be eligible for leave and not at this stage.

4. The learned counsel appearing for the petitioner / wife of the detenue submitted that Rule 40 provides the power of exemption from all these earlier rules and the Government is entitled to consider the case of the petitioner, in the light of the health conditions of the petitioner's husband.

5. However, the learned counsel appearing for the petitioner submitted that, in view of the stand taken in the counter affidavit, it is very clear that the Government is not inclined to exercise the powers granted under Rule 40 and that the learned Additional Public Prosecutor is very specific in stating that the petitioner's husband is not entitled to be granted parole, on any grounds, whatsoever and therefore, this Court must exercise the inherent power to grant leave to the petitioner's husband.

6. Considering the health condition of the petitioner's husband, we are of the view that he needs extra care, nourishment and moral support of the family members, when he has suffered fracture in the neck bone. Moreover, in a bedridden condition, he cannot be a menace to the society if he is ordered to be released from the prison.

7. Under the stated circumstances, we are of the view that this Court must grant parole for the husband of the petitioner / detenue on humanitarian considerations.

8. Accordingly, this petition is disposed of and the convict prisoner, namely, B.Baskaran, S/o.Balakrishnan (C.T.No.20806) is permitted to go on temporary leave for a period of one month, i.e. from 15.06.2018 to 14.07.2018. Till such time, the sentence remains suspended and the respondents are directed to release the husband of the petitioner on 15.06.2018, 05.00 pm, upto 14.07.2018, 05.00 pm, subject to the condition that the

respondents shall follow all the usual procedures and safeguarding measures in accordance with the Prison Manual.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary, State of Tamil Nadu,
Home Department, Fort St. George, Chennai 600 009
2. The Director General of Prisons,
Egmore, Chennai 600 008
3. The Superintendent of Central Prison,
Vellore Central Prison, Vellore District
4. The Public Prosecutor, High Court, Madras.

+1 cc to Mr.R.Senkarasubbu Advocate sr 37335

H.C.P.No.1010 of 2018

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