

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
and
THE HON'BLE MRS. JUSTICE S. RAMATHILAGAM

H.C.P. No.1073 of 2018

Najeena

... Petitioner

Versus

1. The State represented by its
The Secretary to Government of Tamilnadu,
Department of Home,
Fort St. George,
Chennai - 600 009.
2. The Additional Director General of Prison,
C.M.D.A. Towers,
Egmore, Chennai - 600 008.
3. The Superintendent,
Central Prison, Kovai. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondents to grant leave for 60 days to the detainee, Thajudheen, aged about 46 years, Convict No.10662 detained at Central Prison, Kovai.

For petitioner : Dr.S.Manohar

For respondents : Mr.R.Prathap Kumar, APP

ORDER
(Made by S.VIMALA, J.)

This petition has been filed seeking direction to the respondents to grant leave for 60 days to the detainee, Thajudheen, aged about 46 years, Convict No.10662 detained at Central Prison, Kovai.

2. The learned counsel appearing for the petitioner has produced the copies of order passed in Criminal O.P. Nos.6352 of 2017 and 262 of 2018, dated 28.04.2017 and 28.02.2018 respectively, wherein this Court, in identical circumstances, has granted parole to the accused therein.

3. The learned counsel appearing for the petitioner submits that in each of the case, the petitioner therein is the co-accused and that parole has been granted and, therefore, this detenu herein alone cannot be treated differently and therefore the order passed granting parole for a period of only 20 days only during day time has to be modified.

4. The learned counsel appearing for the petitioner further submits that right to life includes right to live with dignity and if the petitioner is not available during night time, especially at the time of marriage and immediately thereafter, his right to a dignified life would be greatly affected and that security issues will be taken care of by the petitioner and, therefore, this Court may grant parole on par with the co-convicts.

5. We have perused the order passed in all the three cases, which are filed in the additional typed set of paper. The non grant of leave for 20 days cannot be said to be a malafide order, as it is based on the report of the Probationary Officer. The Probationary Officer has pointed out the risk involved in allowing the accused to stay overnight and only based on the report of the Probationary Officer, the jail authorities have passed the order granting parole for the day time only.

6. However, considering the submissions advanced by the learned counsel for the petitioner and also taking into account the orders passed in respect of convicts, who are similarly placed like the detenu, and further taking into consideration the undertaking given by the petitioner that the petitioner would take care of the security of the detenu, we are inclined to modify the order of jail authorities granting parole for a period of 20 days with permission to stay overnight as well.

7. Accordingly, the order passed by the respondents is modified and the detenu is granted parole for a period of 20

days from 17.07.2018 with permission to stay overnight. The respondents shall make adequate security arrangements for the safety of the detenu till his return back to prison.

8. The Habeas Corpus Petition is ordered in the above terms.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Secretary to Government of Tamilnadu,
Department of Home,
Fort St. George,
Chennai - 600 009.
2. The Additional Director General of Prison,
C.M.D.A. Towers,
Egmore, Chennai - 600 008.
3. The Superintendent,
Central Prison, Kovai.
4. The Public Prosecutor,
Madras High Court,
Chennai.
5. The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.Narayanan, Advocate, S.R.No.41202

JP(CO)
CS/16/07/18

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