

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.06.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA
AND
THE HON'BLE MRS. JUSTICE S.RAMATHILAGAM

Habeas Corpus Petition No.1163 of 2018

Kesavan

... Petitioner /
Father of the detainee

versus

1. The Additional Director General of Prisons,
Thaalamuthu Natarajan Maaligai,
Gandhi Irwin Salai, Egmore, Chennai.
2. The Superintendent of Prisons,
Central Prison, Coimbatore
3. The Inspector of Police,
Valapaadi Police Station, Salem District
(Cr. No.120 of 2010) ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a direction to direct respondents 1 and 2 herein to permit the petitioner's son, Babu, to grant parole for a period of 10 days to attend the Puniyasthanam Ceremony and naming the child by performing ceremony his baby.

For Petitioner : Mr. T.Murugananatham
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 (father of the detainee) seeking parole for his son, who is in custody in connection with a murder case, dated 02.02.2016.

2. The Criminal Appeal filed by the accused has ended in dismissal and Special Leave Petition is stated to be pending before the Supreme Court and as per the directions given by the Supreme Court, it is stated that the petitioner's son surrendered to custody on 10.11.2017.

2.1. The detainee's wife has sent a representation dated

24.05.2018 seeking release of her husband for giving his consent during her delivery. The representation sent did not evoke any response from the Jail Authorities. Thereafter, this Habeas Corpus Petition has been filed seeking the release of the petitioner's son, namely, Babu (the detainee).

3. The learned Additional Public Prosecutor appearing for the respondents made a preliminary objection that this Habeas Corpus Petition is not maintainable, in the absence of sending a representation to the Jail Authorities.

4. This contention may apparently seems to be correct, but on a closure scrutiny, it reveals that on 24.05.2018 itself when the detainee's wife has sought for the release of her husband on the ground that his presence is needed at the time of delivery, the respondents have not even chosen to sent a reply. Therefore, it can be presumed that the present petition is a continuation of the earlier representation. Therefore, the contention that this Habeas Corpus Petition is not maintainable cannot be accepted.

5. When the detainee's wife has delivered a child, it is a natural expectation of any wife that her husband should come and see the child and if permission is refused, at the crucial time, it would result in denial of pleasure and discipline cannot be enforced in the jail. Therefore, considering the human rights of the detainee, his wife as well as in the interest of the child, we hereby grant parole to the detainee, Babu, for a period of ten days, starting from 21.06.2018, 10.00 am to 30.06.2018, 05.00 pm.

6. Accordingly, this petition is disposed of, and the detainee, namely, Babu, is permitted to go on parole for a period of ten days, i.e. from 21.06.2018, 10.00 am to 30.06.2018, 05.00 pm. Till such time, the sentence remains suspended and the respondents are directed to release the detainee, on 21.06.2018, 10.00 am till 30.06.2018, 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 (CS VI)
//True Copy//

Sub Assistant Registrar

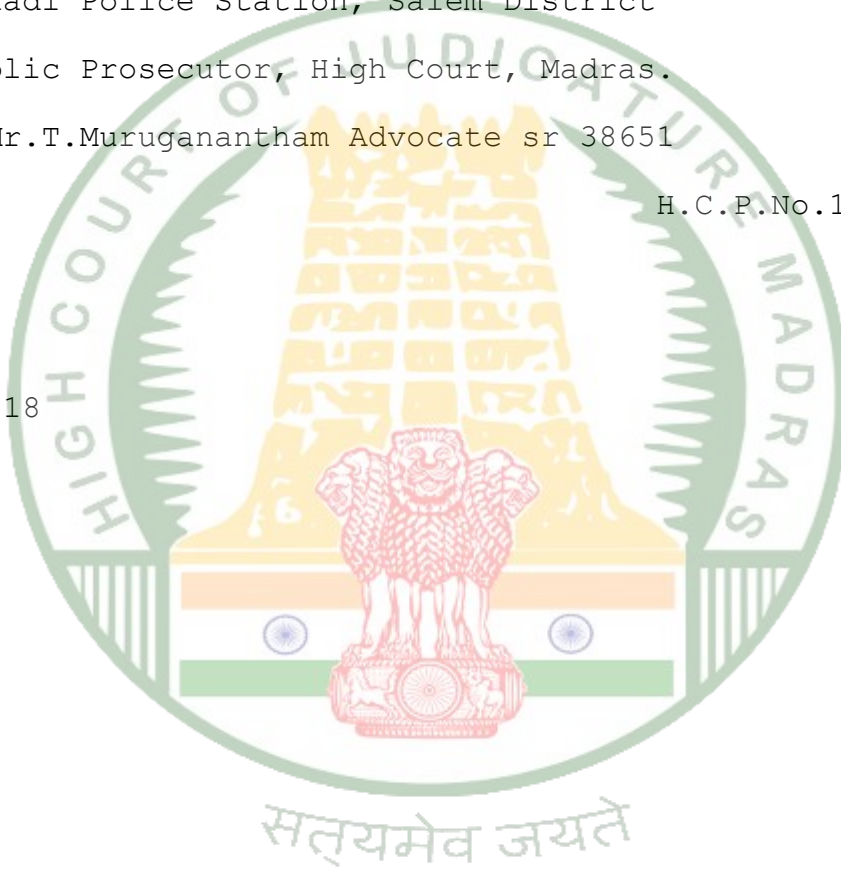
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To

1. The Additional Director General of Prisons,
Thaalamuthu Natarajan Maaligai,
Gandhi Irwin Salai, Egmore, Chennai.
 2. The Superintendent of Prisons,
Central Prison, Coimbatore
 3. The Inspector of Police,
Valapaadi Police Station, Salem District
 4. The Public Prosecutor, High Court, Madras.
- +1 cc to Mr.T.Muruganantham Advocate sr 38651

H.C.P.No.1163 of 2018

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