

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN  
and  
THE HONOURABLE MR.JUSTICE S.BASKARAN

H.C.P.No.1697 of 2018

M.Shakila Banu .. Petitioner/Sister of the  
detenue  
-vs-

1. The State Represented by its  
The Secretary to Government of Tamil Nadu,  
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,  
Coimbatore. ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the respondents to grant ordinary leave for three months to the detenue, Mohammed Rafik, S/o.Mohammed Sali, aged about 41 years old, who was a convict prisoner bearing Convict No.10682, detained at Central Prison, Coimbatore.

For Petitioner : Dr.S.Manoharan

For Respondents : Mr.R.Prathap Kumar,  
Additional Public Prosecutor.

JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J.)

The Petitioner's brother Mohammed Rafik was convicted and he has been undergoing life imprisonment as Convict No.10682 at Central Prison, Coimbatore from 1998 onwards. To release him on leave for three months, the petitioner has sent a representation to the respondents on 19.07.2018. Since the said representation has not been considered, the petitioner has come before this Court seeking positive direction.

2. Heard Dr.S.Manoharan, learned counsel for the Petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor for the respondents.

3. It is submitted that the petitioner's brother has to be granted leave for the reasons such as, (i) to make arrangements for the livelihood of his family and for the settlement of life after release; (ii) Construction or repairing the homestead and (iii) Settling family disputes like partition etc., under Article 22 of Tamil Nadu Suspension of Sentence Rules 1982. Since the petitioner's brother has been lodged in prison for more than twenty years, the present petition has been filed.

4. However, Mr.R.Prathap Kumar, the learned Additional Public Prosecutor would submit that the second and third respondents have got no power to grant Parol for more than one month and it is only, the first respondent, who is to consider under Rule 40 of TamilNadu Suspension of Sentence Rules 1982.

5. Taking into consideration the fact that the petitioner has already given representation dated 19.07.2018, it is appropriate to direct the first respondent to consider the petitioner's claim for leave to the detainee named Mohammed Rafik, S/o.Mohammed Sali, who is the prisoner, as per law, by disposing of the representation dated 19.07.2018 within two weeks from today.

6. In the result, the Habeas Corpus Petition is disposed of in the above manner.

Post the matter under the caption "For Compliance" after two weeks.

Sd/-

सत्यमेव जयते  
Assistant Registrar (CCC)

//True copy//

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Sub Assistant Registrar

ay/nvsri

To

1. The Secretary to Government of Tamil Nadu,  
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,  
Coimbatore.

4. The Public Prosecutor  
High Court, Madras.

Copy to: The Section Officer  
Criminal Section  
High Court, Madras  
(Post for reporting compliance 2 weeks)

+lcc to Dr.S.Manoharan, Advocate SR.NO.56316

NRJK(CO)  
sm:20.8.2018

H.C.P.No.1697 of 2018



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