

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

And

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.2112 of 2017

Keerthika

... Petitioner/
Daughter of Detenue

-vs-

The State represented by its

1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai-600 009.
2. The Additional Director General of Prisons,
C.M.D.A. Towers,
Egmore, Chennai-600 008.
3. The Superintendent,
Central Prison, Coimbatore.

... Respondents

Prayer : 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 60 days to the detenue, Ayyanar, S/o.Chinnasamy, aged about 47 years, who was a convict prisoner bearing Convict No.7374, detained at Central Prison, Coimbatore.

For Petitioner : Dr.S.Manoharan

For Respondents : Mr.V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. This is a petition seeking direction qua the respondents to grant leave for sixty (60) days to the detenue on the ground that the petitioner, who is his wife, required treatment for paralysis.

2. It is averred that the detainee would have to arrange for medication as well as physiotherapy.

3. We had issued notice in this petition on 13.11.2017, since then, a counter affidavit has been filed on behalf of the State. A perusal of the counter affidavit shows that the detainee had exhausted ordinary leave and hence, would be eligible for grant of the same only after expiry of two (2) years, i.e., in and about 03.04.2019. Furthermore, the State in its counter affidavit had also taken the stand that the detainee had exhausted emergency leave as well. The details with regard to the fifteen (15) days emergency leave taken in 2017, are provided in paragraph 5 of the counter affidavit.

4. Having regard to the aforesaid position, we had posted the matter on 02.01.2018, to explore as to whether emergency leave could be granted to the detainee in 2018. The matter, however, got listed only today.

5. Mr.V.M.R.Rajentran, learned Additional Public Prosecutor, says that the detainee can be granted fifteen (15) days leave spread over four (4) spells in one year, subject to a maximum of six (6) days in any one spell. On being queried, the learned Additional Public Prosecutor says that given the illness of the petitioner, the State would be inclined to grant leave for six (6) days in terms of Rule 13 of the Tamil Nadu Suspension of Sentence Rules, 1982 (in short "the 1982 Rules").

6. Having heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor, we are inclined to grant emergency leave to the detainee for a period of six (6) days.

7. Furthermore, in our view, the detainee could avail of extension of emergency leave beyond six (6) days, if, procedure, as prescribed under Rule 34 of the 1982 Rules is followed. This aspect of the matter emerges, upon a perusal of Rule 13 of the 1982 Rules.

7.1. Thus, in case, situation demands, the detainee and/or the petitioner may apply for extension of leave, well before the expiry of six (6) days emergency leave ordered by us.

7.2. In case, such a petition is made, the State will consider the request favourably, given the medical circumstances and the financial wherewithal of the petitioner.

8. Thus, as indicated by the learned counsel for the petitioner, leave will be granted to the detainee from 12.01.2018. The detainee will surrender on 18.01.2018 at 05.00

p.m., if, no extension is sought and granted.

8.1. The concerned authorities will follow the usual protocol in granting emergency leave to the detainee.

9. The petition is closed, in terms of the aforesaid directions.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Department of Home,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Additional Director General of Prisons,
C.M.D.A. Towers,
Egmore, Chennai-600 008.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Additional Public Prosecutor,
Madras High Court, Madras.
5. The Joint Secretary Public(Law & Order),
Fort St.George,
Chennai.
6. The Deputy Superintendent of Police,
Mylapore, Chennai.

+1cc to Mr.S.Manoharan, Advocate, S.R.No.317

H.C.P.No.2112 of 2017

CA(CO)

RRK(08/01/2018)