

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

H.C.P.No.2182 of 2018

M.Niphan Banu .. Petitioner

-vs-

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,
Poonamallee Sub Jail,
Poonamallee,
Chennai. .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to given leave for one month from 01.10.2018 to the detenu, S.Sayedh Ali Nivas, S/o.Syed Mohammed, aged about 30 years, Crime No.746/2014 detained at Poonamallee Sub Jail, Poonamallee, Chennai for his marriage.

For Petitioner : Dr.S.Manoharan

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

JUDGMENT

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

The Petitioner's brother has been detained in Jail on Judicial custody with regard to the case under sections 302, 153 (A), 120 (b) & 212 of IPC and under sections 18, 19 and 20 of the Unlawful activities (Prevention Act) in Crime No.746 of 2014 on the file of the Ambathur Estate Police Station.

2.The petitioner's brother has been in the judicial custody for the past four years as a remand prisoner, since the trial is not yet completed. Therefore, the petitioner has sought for a leave of one month from 01.10.2018 to the detenu for his marriage. Hence this petition.

3.Heard Mr.S.Manoharan, learned Counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondents.

4.As rightly pointed out by the learned Additional Public Prosecutor, the petitioner's brother is only a remand prisoner and the detenu has to move the trial Court for bail and there is no provision for leave, especially, when the petitioner's brother is under judicial custody. Granting of leave to the prisoners would be applicable only to the people, who are convicted and that too on emergency situations and not as a matter of right.

5.Therefore, this petition is not maintainable and the same is dismissed accordingly. No costs.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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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,
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Egmore,
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3. The Superintendent,
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Poonamallee,
Chennai.

+1 CC to Mr.S. Manoharan, Advocate sr 67693.

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SP(03/10/2018)