



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2018

CORAM:

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**W.P(MD)No.7710 of 2018**

Kalaiselvi

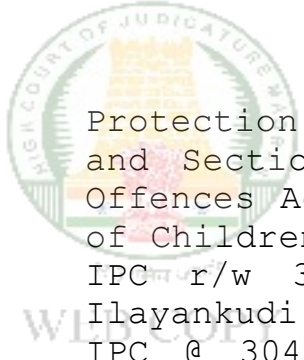
... Petitioner

Vs.

1. The State of Tamil Nadu,
rep.by its Chief Secretary (Home),
Secretariat,
Fort St.George,
Chennai - 9.
2. The State of Tamil Nadu,
rep.by its Additional Chief Secretary (Home),
Prohibition and Excise Department, Secretariat,
Fort St.George,
Chennai - 9.
3. The District Collector,
Sivagangai District,
Sivagangai.
4. The Superintendent Police,
Sivagangai District,
Sivagangai.
5. The Superintendent,
Central Prison,
Madurai.
6. The Jailor,
Central Prison,
Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to release the petitioner's younger son Prabhakar S/o. Pandiarajan on Parole who is detained under Act 14 of 1982 on the proceedings of the 3rd respondent in Cr.M.P.06/S.O/2018 dated 20.03.2018, pursuant to the crime committed in connection with the all Women Police Station, Sivagangai (1) Crime No.3 of 2018 under Section 366(A) 376(2) (g) (I) of IPC and Section 5 (g) r/w 6 of



Protection of Children from Sexual Offences Act, 2012 @ 366 (A) and Section 5 (g) r/w 6 of Protection of Children from Sexual Offences Act, 2012 @ 366 (A) and Section 5(g) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and Section 294(b), 323 IPC r/w 376(2)(a)(i), 506(ii) IPC, (2) Crime No.36 of 2018, Ilayankudi Police Station for the offences under Sections 304(A) IPC @ 304(ii), 201 IPC, to perform the funeral rights to the petitioner's elder son Dhivakar on 08.04.2018 and for continuing ceremonies for a period of ten days.

For Petitioner : Mr.R.Meenakshi Sundaram
for Mr.N.Mohideen Basha

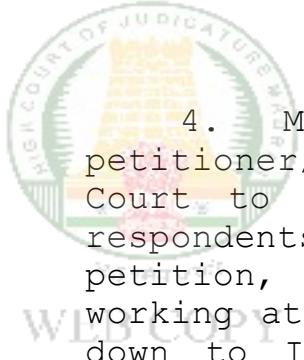
For Respondents : Mr.P.Kanni Devan
Additional Government Pleader

ORDER

The petitioner is the mother of the detenu, namely, Prabhakar, aged 23 years, who has been detained under the Act 14 of 1982 by branding him as a 'Sexual Offencer', by the District Collector, Sivagangai District, vide the proceedings in Cr.M.P.06/S.O/2018 dated 20.03.2018, pursuant to the crime committed in connection with (1) Crime No.3 of 2018 under Section 366(A) 376(2) (g) (I) of IPC and Section 5 (g) r/w 6 of Protection of Children from Sexual Offences Act, 2012 @ 366 (A) and Section 5 (g) r/w 6 of Protection of Children from Sexual Offences Act, 2012 @ 366 (A) and Section 5(g) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and Section 294(b), 323 IPC r/w 376(2)(a)(i), 506(ii) IPC on the file of the all Women Police Station, Sivagangai, and (2) Crime No.36 of 2018, for the offences under Sections 304(A) IPC @ 304(ii), 201 IPC, on the file of Ilayankudi Police Station.

2.The mother of the detenu has submitted a representation dated 08.04.2018 to the respondents stating that his elder brother by name Dhivakar, met with an accident near Tenkasi on 08.04.2018 and died on the same day. Since her husband is working at Malaysia, it is difficult for him to come down to India immediately to perform the funeral rites of their son and therefore, she filed the present writ petition, seeking parole/leave for ten days to the detenu to perform the said ceremonies.

3. According to the petitioner, though the respondents had acknowledged the said representation, they have not responded and therefore, filed the present petition praying for appropriate direction, directing the release of the detenu temporarily on parole/leave for ten days to perform the funeral rites on account of his brother's demise.



4. Mr.R.Meenakshi Sundaram, learned Counsel for the petitioner/mother of the detenu, inviting the attention of this Court to the representation dated 08.04.2018 submitted to the respondents as well as the affidavit filed in support of this petition, would submit that the father of the deceased is now working at Malaysia and immediately he is not in a position come down to India and therefore, in order to perform the funeral rites, the petitioner filed this writ petition, seeking temporary release/parole/leave of the detenu.

5. Per contra, Mr.P.Kanni Devan, learned Additional Government Pleader appearing for the respondents has confirmed that the elder son of the detenu died on 08.04.2018, however, seriously opposed the prayer for the grant of temporary release/parole/leave of the petitioner's son for a period of ten days.

6. This Court, after taking into consideration the rival submissions and upon perusal of the materials available on record, is of the view that the son of the petitioner/detenu, namely, Prabhakar, son of Pandiarajan, concerned in Cr.M.P.No.06/S.O/2018 dated 20.03.2018, is to be granted temporary release/leave/parole to perform the final rites and other related ceremonies of his deceased elder brother, namely, Dhivakar.

7. In the result, this writ petition is ordered, with the following directions:

(i) The respondents are directed to release the detenu, namely, Prabhakar, son of Pandiarajan, who is detained as per the proceedings of the third respondent in Cr.M.P.06/S.O/2018 dated 20.03.2018, on temporary release/leave/parole, to perform the last rites to his elder brother, on **09.04.2018**, on condition that the said Prabhakar, son of Pandiarajan, shall report back to the fifth respondent - the Superintendent, Central Prison, Madurai, on **10.04.2018 at about 06.00 p.m.**

(ii) Sufficient escort with vehicle shall be provided to accompany the said Prabhakar, son of Pandiarajan at free of cost.

(iii) During parole, the detenu shall abide all the conditions prescribed in the Jail Manual and he shall be brought back to the Prison **on 10.04.2018 at about 06.00 p.m.**

(iv) The Superintendent of Prison, Central Prison, Madurai, is directed to file a compliance report before this Court on 11.04.2018.

(v) The petitioner shall report before the K.Pudur Police Station, Madurai, on 09.04.2018 and 10.04.2018 at about 10.00 p.m. and 08.00 am. on the respective dates.



(v) It is also made very clear that the detenu under the guise of this temporary release/leave/parole shall not misuse the liberty.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Secretary (Home),
State of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 9.
2. The Additional Chief Secretary (Home),
State of Tamil Nadu,
Prohibition and Excise Department, Secretariat,
Fort St.George,
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Sivagangai.
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Sivagangai.
5. The Superintendent,
Central Prison,
Madurai.
6. The Jailor,
Central Prison,
Madurai.

+ 2 ccs TO Mr.R.Meenakshi Sundaram , Advocate in SR No. 60370

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AE/SV MMS/SAR3/09.04.2018/4P/9C

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