



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.21704 of 2018

S.Saraswathi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Home (Prison V) Department,
Secretariat, St.George Fort,
Chennai-600 009.

2.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli-2.

3.The Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.

... Respondents

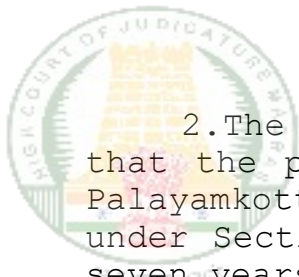
PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the respondents to release the petitioner's husband Senthilkumar, S/o.Jeyapandi Nadar on parole for the period of one month who has been confined at Central Jail, Palayamkottai, Tirunelveli-2 to make arrangements and to participate in the marriage of his son Muthukumar with Muthuselvi to be celebrated on 28.10.2018 at Pitchivilaipudur, Vellalanvilai Via, Tiruchendur Taluk, Thoothukudi District and also in the after marriage connected functions by considering the petitioner's representation dated 10.10.2018.

For Petitioner : Mr.S.R.Anbarasu

For Respondents : Mr.B.Bhagawathi,
R-1 to R-3 Government Advocate.

ORDER

This writ petition has been filed seeking for grant of ordinary leave to the petitioner's husband on the ground that the marriage of the detenu's son is fixed on 28.10.2018.



2.The learned counsel appearing for the petitioner would submit that the petitioner's husband, namely, Senthilkumar is confined at Palayamkottai Central Prison, after being convicted for an offence under Section 376 (1) IPC in S.C.No.99 of 2013 and was sentenced to seven years imprisonment with fine.

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3.The learned counsel would further submit that the petitioner's husband has already undergone imprisonment for a period of 3 ½ years. The learned counsel would further submit that the marriage of the detenu's son is arranged on 28.10.2018. Therefore, the petitioner made a representation to the respondents on 10.10.2018, seeking for ordinary leave to attend the marriage.

4.This representation has not been considered and therefore, the present Writ Petition has been filed.

5.The learned Government Advocate on instructions, would submit that the petitioner's husband was already granted ordinary leave in the year 2015 to attend the marriage of his son. The ordinary leave was granted for a period of ten days from 08.09.2015 and the petitioner's husband thereafter, surrendered on 18.09.2015.

6.The learned Government Advocate would further submit that the representation made by the petitioner is pending before the second respondent.

7.As per Rule 20(iv) of the Tamil Nadu Suspension of Sentence Rules, 1982, the prisoner is entitled for ordinary leave to participate in the marriage of the son or daughter of the prisoner. That apart, Rule 22 of the above said Rules, deals with the eligibility for an ordinary leave. The prisoner can be granted the second spell of ordinary leave, only after the completion of two years of imprisonment from the date on which, he returns from the last ordinary leave. In this case, admittedly, the petitioner's husband has returned from the last ordinary leave to the prison on 18.09.2015. Therefore, the petitioner's husband is entitled to be considered for grant of ordinary leave for the purpose of attending the marriage of his son.

8.In view of the above, there shall be a direction to the second respondent to grant ordinary leave to the petitioner's husband, namely, Senthilkumar (Prisoner No.3293) from 27.10.2018 upto 04.11.2018. The petitioner's husband shall be released from the jail on 27.10.2018 and he shall be accompanied by a Police Escort. The petitioner's husband after attending his son's marriage, shall stay within the jurisdiction of Thiruchendur Taluk and thereafter, the petitioner's husband shall surrender before the second respondent on 04.11.2018. It is also open to the second respondent to impose any reasonable conditions during the period when the detenu is let out on ordinary leave, including the payment of Escort charges.



9. This Writ Petition stands disposed of with the above directions. No costs.

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Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar (CS-III)

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home (Prison V) Department,
Secretariat, St. George Fort,
Chennai-600 009.
2. The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli-2.
3. The Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.

+1CC to Mr. S. R. Anbarasu, Advocate, SR.No. 91999

+1CC to the Special Government Pleader SR.No. 92246

W.P. (MD) No. 21704 of 2018
25.10.2018

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