



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.[MD].No.1216 of 2018

Selvi

: Petitioner

Vs.

1.The Secretary,
Home Department,
Government of Tamil Nadu,
St. George Fort,
Chennai-600 009.

2.The Additional Director General of Prison,
C.M.D.A. Towers, Egmore,
Chennai-600 008.

3.The Deputy Inspector General of Prison,
Central Prison,
Madurai-625 016.

4.The Superintendent,
Central Prison,
Madurai-625 016.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to grant ordinary leave for one month to the detenu, namely Karuppasamy @ Rajendran, S/o.Murugesan, aged about 42 years, Convict Prisoner No.CP.9714, detained at Central Prison, Madurai, as per Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982, by considering the petitioner's representation dated 11.08.2018.

For Petitioner : Mr.Karunanithi,
For Mr.D.Rameshkumar

For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner has come up with the present Habeas Corpus Petition seeking a direction to the respondents to grant ordinary leave for one month to the detenu, namely Karuppasamy @ Rajendran, S/o.Murugesan, aged about 42 years, Convict Prisoner No.CP.9714, detained at Central Prison, Madurai, as per Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982, by considering her representation dated 11.08.2018.



2. The petitioner's request for ordinary leave was rejected placing reliance upon Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982. The reason for rejection is that the detenu has not completed three years of imprisonment.

3. For better appreciation, Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982 is, accordingly, extracted hereunder:

22. Eligibility for ordinary leave:

(1) No prisoner shall be granted ordinary leave unless he has been sentenced by a court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed three years of imprisonment from the date of initial imprisonment."

4. The aforesaid rule makes a mention about the initial imprisonment to be reckoned for the purpose of calculating three years of incarceration. Therefore, the period undergone by the detenu pending trial also will have to be taken into consideration for reckoning the three years term.

5. The learned Additional Public Prosecutor would also submit that if that is taken into consideration, the detenu would be completing three years period on 17.08.2018.

6. It appears that there is no other objection other than the technical one raised in the rejection order. Therefore, in the light of the aforesaid rule, we are of the view that the rejection order cannot be sustained. While interpreting rule, we have to adopt a purposive interpretation, keeping in view of liberty of a convict is concerned. Under Section 428 of the Code of Criminal Procedure also, the detenu is entitled for set off. In such view of the matter, we are inclined to set aside the order dated 12.07.2018, though, it is not under challenge herein and accordingly, it is set aside. Consequently, the respondents are hereby directed to grant 15 days ordinary leave to the detenu, viz., namely Karuppasamy @ Rajendran, S/o. Murugesan, aged about 42 years, Convict Prisoner No. CP.9714, detained at Central Prison, Madurai, starting from 28.09.2018, subject to the usual conditions that can be imposed. It is made clear that after the aforesaid period is over, the detenu will have to be returned back to the Prison.

7. The Habeas Corpus Petition is ordered accordingly.

Sd/-

Assistant Registrar (CS-III)

/True Copy/



To

1. The Secretary,
Home Department,
Government of Tamil Nadu,
St. George Fort,
Chennai-600 009.
2. The Additional Director General of Prison,
C.M.D.A. Towers, Egmore,
Chennai-600 008.
3. The Deputy Inspector General of Prison,
Central Prison,
Madurai-625 016.
4. The Superintendent,
Central Prison,
Madurai-625 016.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.D.RAMESH KUMAR ADVOCATE IN SR.NO.86861.

SML

DS RP SAR-4:26.09.2018: 3P/7C

Order made in
H.C.P.[MD].No.1216 of 2018
Dated: 26.09.2018