



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.(MD) No.22590 of 2018andW.M.P.(MD)No.20471 of 2018

N.Mareeswari

... Petitioner

-vs-

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

2.The Additional Director General of Police/
Inspector General of Prison,
No.1, Gandhi Irwin Salai,
Egmore,
Chennai-600 008.

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

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, to direct the Respondents to extent the Parole to the petitioner's husband viz., Nallamaruthu @ Maruthu, S/o.Bose Convict Prisoner No.3536, now confined at Central Prison, Madurai by another 6 weeks from 10.11.2018 to undergo inpatient treatment for his kidney failure in Devadass Multi Speciality Hospital, Madurai and to admit her mother-in-law in the hospital for the heart surgery to replace the Valve and take better treatment.

For Petitioner : Mr.C.Mayil Vahana Rajendran

For Respondents : Mr.R.Anandharaj

O R D E R

This writ petition is filed seeking for a writ of Mandamus directing the Respondents to extend the Parole to the petitioner's husband viz., Nallamaruthu @ Maruthu, S/o.Bose, Convict Prisoner No.3536, now confined at Central Prison, Madurai by another 6 weeks from 10.11.2018 to undergo inpatient treatment for his kidney failure in Devadass Multi Speciality Hospital, Madurai and to admit his mother in the hospital for the heart surgery to replace the Valve and take better treatment.

2.The learned counsel appearing for the petitioner would submit that the petitioner's husband was falsely implicated in a case in S.C.No.506 of 1997 for the offences under Section 147, 148, 341, 302 r/w 149 of IPC and upon completion of trial, the I Additional District and Sessions Judge, Madurai, convicted the petitioner's husband and sentenced to undergo imprisonment for life and her husband was confined at Central Prison, Madurai. The petitioner applied for six weeks ordinary leave and since the Government did not consider the same, the petitioner filed a writ petition in W.P(MD)No.20154 of 2018 before this Court and this Court by order, dated 03.10.2018, directed the fourth respondent to consider the petitioner's representation and grant ordinary leave for a period of 15 days to the petitioner's husband. By order, dated 25.10.2018, the Government had granted ordinary leave for a period from 17.10.2018 to 31.10.2018.

3.The learned counsel for the petitioner further submitted that while the petitioner's husband was on ordinary leave, the mother of the convict suffered 'heart ailment' and she has been advised to undergo Valve Transplantation. Since the petitioner's husband being the elder son, the petitioner by representation dated 24.10.2018 sought for emergency leave for a period of 30 days and it was rejected by the fourth respondent by order dated 25.10.2018. Being aggrieved, the petitioner filed W.P(MD)No.22051 of 2018 and this Court by order dated 29.10.2018 had directed the petitioner to resubmit a fresh representation and directed the fourth respondent to consider it within a week and pursuant to that parole was extended till 10.11.2018. In the meantime, the petitioner's husband was admitted in the Devadoss Multi Speciality Hospital for 'uncontrolled Diabetic and uncontrolled Hypertension'. He has pyrexia with respiratory symptoms for last 10 days. Therefore, the petitioner, who is the wife of the convict, has filed the present writ petition with the aforesaid prayer seeking to extent the parole by another six weeks.

4.The learned Additional Public Prosecutor appearing for the respondents would object to the grant of extension stating that the petitioner had exhausted all the leave and only the Government can consider the emergency situation for emergency leave as per Rule 34 of the Tamil Nadu Prison Manual and hence, he prayed for dismissal of this writ petition.



5.I have considered the submissions made on either side and perused the materials placed before this Court.

6.Taking into consideration the submission made by the counsel for the petitioner, this Court, on 08.11.2018 directed the respondents to verify about the health condition of the mother of the convict Nallamarudhu @ Maruthu and also the health condition of the convict Nallamarudhu @ Maruthu. Today, the respondents have produced the report stating that the mother of the convict namely Bose Kaliammal, aged about 60 years is suffering from 'Asthmatic Bronchitis' and that there is no medical certificate available for this patient. Further, the certificate issued in the name of the convict Nallamarudhu @ Maruthu stated that it is a case of 'uncontrolled diabetic hypertension with fever with respiratory symptoms' and that the investigation and treatment particulars is not available.

7.At this juncture, the learned counsel appearing for the petitioner would submit that the petitioner herself is suffering from high fever and admitted in the hospital suspected to be HINI.

8.The learned Additional Public Prosecutor also on verification would submit that the petitioner herself has been admitted in the hospital.

9.In view of the above, this Court directs the convict viz., Nallamarudhu @ Maruthu to surrender before the Superintendent of Police, Central Prison, Madurai and to give a fresh representation to the fourth respondent on the basis of the health condition of the convict, his mother and his wife seeking to invoke Rule 13 and 40 of the Tamil Nadu Prison Manual and the fourth respondent shall sympathetically consider the same at the earliest, within a period of 10 days, from the date of receipt of such representation.

10.With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Crl.Side)

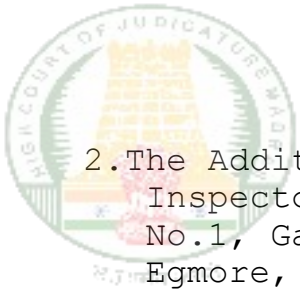
/True Copy/

Sub Assistant Registrar(CS-II)

am

To:

1.The Principal Secretary to Government,
Home (Prison V) Department,
Secretariat, Fort St George,
Chennai-600 009.



2.The Additional Director General of Police/
Inspector General of Prison,
No.1, Gandhi Irwin Salai,
Egmore, Chennai-600 008.

WEB COPY

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

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

+1cc to Mr.C.Mayil Vahana Rajendran, Advocate in SR No.94814

W.P. (MD) No.22590 of 2018

NM/SV/SAR II/12.11.18/4P/6C.