



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD) No.19962 of 2018
and
W.M.P. (MD) No.17759 of 2018

C.Raja

... Petitioner

vs.

1.The Secretary,
Home Department,
Secretariat,
Chennai - 9.

2.The Deputy Inspector General of Prison,
Additional Director General Office,
Chennai - 8.

3.The Deputy Inspector General of Prison,
Trichy Region,
Trichy.

4.The Superintendent of Prison,
Central Prison,
Trichy.

...Respondents

Prayer: This petition filed under Article 226 of the Constitution of India, for issuing a Writ of Certiorarified Mandamus, to call for the records pursuant to the third respondent's impugned order in his proceedings No.1560/MU.U/2018, dated 04.09.2018 and quash the same and consequently direct the respondents to extend the ordinary leave already granted by the third respondent by his order dated 14.08.2018, which is expiring on 19.09.2018 for further period of one month to the petitioner.

For Petitioner : Mr.J.John
For Respondents : Mr.B.Bhagawathi
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the third respondent rejecting the application filed by the petitioner seeking for extension of the ordinary leave.



2.The petitioner is a life convict. He applied for ordinary leave before the third respondent on the ground of conducting his daughter's marriage on 21.08.2018. The third respondent granted ordinary leave for a period of 30 days for performing the petitioner's daughter's marriage. Thereafter, the petitioner had sought for extension of ordinary leave on the ground that he has taken loan for performing the marriage of his daughter and therefore, he has to settle certain property in order to re pay back the loan.

3.The third respondent by impugned order dated 04.09.2018, rejected the extension sought for by the petitioner on the ground that he does not have the power under the Tamil Nadu Suspension of Sentence Rules, 1982. Aggrieved by the same, the petitioner had approached this Court by filing the above writ petition.

4.The learned counsel for the petitioner would submit that the petitioner had made a request for extension of the ordinary leave even during the pendency of the ordinary leave already granted by the third respondent. Since the period came to an end, the petitioner had surrendered before the third respondent personally and was confined at General Prison, Trichy.

5.The learned counsel for the petitioner would further submit that the petitioner requires 15 days ordinary leave for the purpose of settling the properties and to repay back the loan taken for the marriage of his daughter.

6.The learned Government Advocate would submit that it is beyond the powers of the Superintendent of Prison, to grant ordinary leave for a period of more than 30 days. The learned Government Advocate brought to the notice of this Court Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982. Rule 22 (2) gives powers to the Superintendent of Prison, to grant ordinary leave only for the period of one month and this period can be extended only by the Government. The learned Government Advocate also filed a status report of the fourth respondent, where the fourth respondent has also taken the very same stand.

7.This Court does not find any illegality in the order passed by the third respondent. The third respondent had already exercised his discretion and has granted 30 days ordinary leave to the petitioner on 21.08.2018. The third respondent does not have any power under the above said rules to grant ordinary leave for more than 30 days. Such power is granted only to the Government.

8.Since the petitioner seeks to settle certain properties in order to re pay back the loan, the petitioner is at liberty to approach the Government seeking for extension of ordinary leave for a further period of 15 days. The Government shall take into consideration the genuineness of the ground made out by the



petitioner. That apart, Rule 20 (V), of the said Rules, specifically provides for granting ordinary leave for settling family disputes like partition etc.,

9. Therefore, if the petitioner makes out a ground for granting ordinary leave, it is well within the powers of the Government to consider the same and extend the period of ordinary leave for a period of 15 days, beyond one month, which was already granted by the third respondent. The petitioner shall make a representation to the first respondent within a period of one week from the date of receipt of a copy of this order and the first respondent shall pass appropriate orders within a period of two weeks thereafter.

10. This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Secretary,
Home Department,
Secretariat,
Chennai - 9.
2. The Deputy Inspector General of Prison,
Additional Director General Office,
Chennai - 8.
3. The Deputy Inspector General of Prison,
Trichy Region,
Trichy.
4. The Superintendent of Prison,
Central Prison,
Trichy.

+1 CC To MR. J. JOHN, Advocate SR. NO. 89313

+1 CC TO The Special Government Pleader SR. NO. 89425

W.P (MD) No. 19962 of 2018

08.10.2018