



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.10.2018

CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P.(MD)No.9950 of 2016
and
W.M.P.(MD).Nos.7855 and 7856 of 2016

Mohamed Iliyas

... Petitioner

Vs.

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

2.The Home Secretary,
St. George Fort, Chennai-9.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the respondent No.3 in No.5696/tha.ku2/2016, dated 04.05.2016 and quash the same and consequently direct the respondents to grant parole leave for a period of one month to the petitioner's younger brother namely N.Ekasan, C.P.No.4406 confined at Central Prison Madurai.

For Petitioner : No Appearance

For Respondents : Mr.B.Bhagawathi
Government Advocate (Criminal side)

ORDER

This writ petition has been filed seeking for a direction to the respondent to grant parole leave to the petitioner's brother namely N.Ekasan, who is a life convict undergoing life imprisonment at Central Prison, Madurai.

2. The petitioner has sought for parole leave for his brother, on the ground that certain documents will have to be executed in order to make a family settlement.

3. The learned Government Advocate (Criminal side) would submit that the third respondent has filed a counter affidavit in this case. It is relevant to extract the following averments made



in the counter affidavit.

".....7...it is submitted that the brother of the petitioner, Lct No.4406 Ekasan @ Raja, S/o Nainor Mohamed was convicted and sentenced to life imprisonment under Section 396 IPC and also convicted under Section 394 r/w 397, 397 r/w Sections 395 and 397 IPC and sentenced to term sentences and hence he is not eligible for ordinary leave as per rule No.21 (b) of Tamil Nadu Suspension of sentence Rules 1982. Moreover, while he was released on five days leave as per the order of Hon'ble High Court of Madras, Madurai Bench in Crl.O.P. (MD).No.9482 of 2010, dated 09.04.2010, he escaped from lawful custody and he had involved in the offences under Sections 457 and 380 IPC and remanded in Sub-Jail, Tiruthani in connection with Crime No.905 of 2011 of Tiruthani Police Station. A case has been registered against him in Udumalaipattai Police Station Crime No.1932 of 2010, under Section 224 IPC for the escape and convicted and sentenced to simple imprisonment for five months by Judicial Magistrate Udumalaipattai in C.C.No.255 of 2011 on 20.08.2014. Therefore, he is not eligible for ordinary leave as per rule No.21(d)(5) of Tamil Nadu suspension of sentence Rules 1982 also which is submitted as follows..."

4. It is seen from the stand taken by the respondent that the petitioner's brother had escaped from the custody, while he was on ordinary leave and he also committed an offence and therefore he is barred from seeking any ordinary leave under Rule 21 of the Tamil Nadu Suspension of Sentence Rules 1982.

5. In view of the above, there are no merits in this writ petition and the same is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The Secretary to Government,
Home (Prison) Department,
Secretariat,
Chennai-600 009.

2.The Secretary to Government,
Home (Prison) Department, Secretariat,
Chennai-9.



3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

+1cc to M/s.Special Government Pleader,SR.No. 88859

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SJI
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