

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.20 of 2019

Sundaramurthy
S/o.Vedi Samiyar

.. Petitioner

Vs

- 1.The State, represented by
The Secretary to Government,
Department of Home,
Fort St.George,
Chennai - 600009.
- 2.The Deputy Inspector General of Prison,
Egmore, Chennai - 600008.
- 3.The Superintendent of Central Prison,
Puzhal - 1,
Chennai - 600066.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the respondents to grant one month leave to the petitioner Sundaramurthy S/o.Vedi Samiyar, life convict No.3600, now confined at Central Prison, Puzhal - 1, Chennai - 600066.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.C.Iyyappa Raj,
Additional Public Prosecutor

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O R D E R

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

The detenu himself is the petitioner and at the time, when he was admitted as a prisoner he was having a minimal qualification and through his efforts has completed B.A. Degree and also undergone vocational courses like animation etc.

Petitioner would further state that his mother namely Marimuthu, aged 90 years, is suffering from age related ailments and desparately, he wants to see his mother and therefore, came forward to file this present petition to grant one month Leave to him for the purpose of meeting his ailing mother.

2. The third respondent has filed a counter affidavit giving the details of conviction/punishment of the petitioner and also took a stand that on the basis of the petition submitted by the petitioner to the second respondent seeking leave, a report has been called for from the concerned Probation Officer in terms of Rule 24 of Tamil Nadu Suspension of Sentence Rules, 1982. When the matter was listed for hearing on 15.02.2019, this Court, taking note of the submission made by learned Additional Public Prosecutor appearing on behalf of the State as to the stage of the said report, has granted time.

3. When the matter is listed today, the report of the Probation Officer dated 18.02.2019 has been produced and as per the contents of the said report the detenu has no sentiments and his brother Seshachalam has refused to give him surety and on an earlier occasion, he came out on leave through escort and insofar as the contention of his mother is concerned, she is under the maintenance of his elder son and she is in good health in terms of her age. The Probation Officer citing the said reason did not make a positive recommendation.

4. Mr.R.Sankarasubbu, learned counsel for the petitioner, in his usual vehemence, would contend that it is not for the Probation Officer to say about the sentiments of the detenu and the fact remains that the mother of the detenu is aged about 90 years and the petitioner is longing to see his mother and considering the fact that his mother is suffering from age related ailments, by way of humanitarian consideration, the petitioner may be permitted to see his mother.

5. On the submissions made by the learned counsel for the petitioner, this Court has also heard the submissions of learned Additional Public Prosecutor appearing for the State, who would submit that by providing

sufficient escort, the petitioner may be permitted to see his mother for a very limited period.

6. This Court has carefully considered the rival submissions and perused the materials placed before it.

7. The fact remains that the petitioner is a Life Convict in C.C.No.6 of 1993 and vide judgment dated 27.08.2010, he was convicted by the Designated Court II under TADA Act, 1987, for

various offences under the TADA Act and IPC and an appeal is pending before the Supreme Court challenging the said conviction and sentence.

8. The report of the Probation Officer dated 18.02.2019 reveals that the petitioner has come out on leave on earlier occasions by providing sufficient escort. It is also not in dispute that the mother of the detenu is aged about 90 years and the petitioner being his son, is longing to see his aged mother and taking into consideration the above facts and circumstances, especially on humanitarian consideration, this Court is inclined to grant leave for a period of five days to see his mother, aged about 90 years, commencing from 01.03.2019 at 11.00 a.m. to 06.03.2019 at 04.00 p.m. Petitioner shall continue to reside in the house of his mother and elder brother at Ramampatti Village, Dharmapuri Taluk and District, which is within the Karimangalam Police Station limits. The respondents are at liberty to provide sufficient escort as to the protection and safe custody of the petitioner and the petitioner shall also extend maximum cooperation to respondents 2 and 3 as well as to the escort personnel for his own safety and well-being. The petitioner shall be taken back to Central Prison, Puzhal, by 04.00 p.m. on 06.03.2019.

9. The Habeas Corpus Petition is disposed of accordingly.
Call on 08.03.2019 for reporting compliance.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to Government,
Department of Home,
Fort St.George,
Chennai - 600009.

2.The Deputy Inspector General of Prison,
Egmore, Chennai - 600008.

3.The Superintendent of Central Prison,
Puzhal - 1,
Chennai - 600066.

4.The Public Prosecutor,
High Court, Madras.

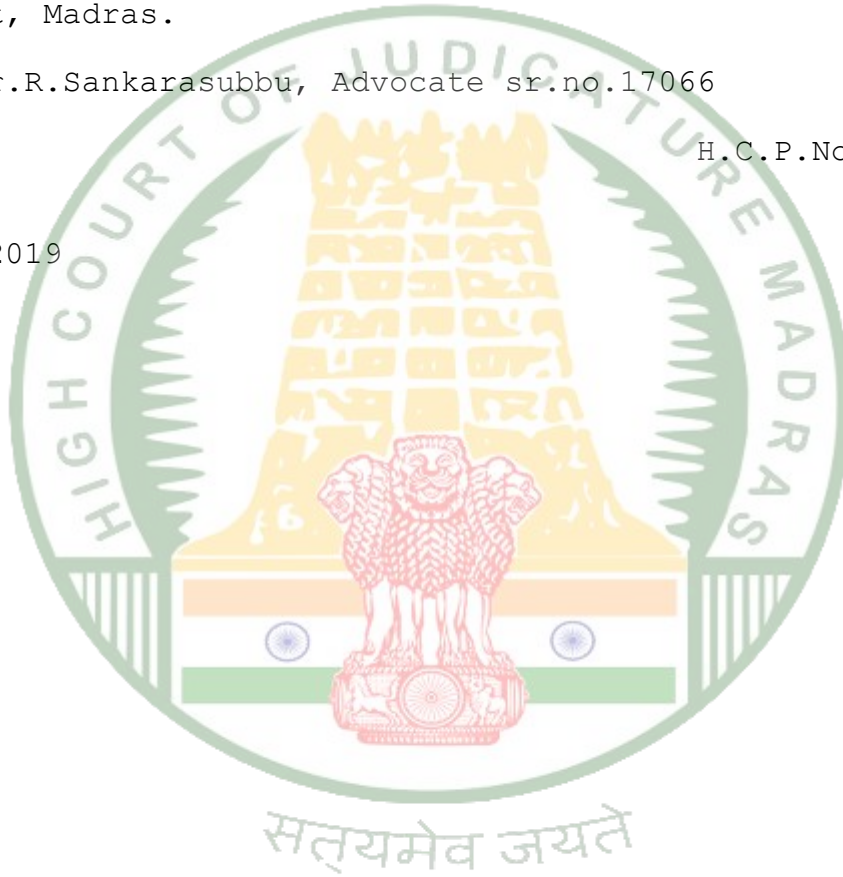
Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.R.Sankarasubbu, Advocate sr.no.17066

H.C.P.No.20 of 2019

mp(co)
nr 27/02/2019



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