

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

H.C.P.No.794 of 2019

A.Kala

.. Petitioner

Vs.

1.The Chief Secretary
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009.

2.The Inspector of Police
Red Hills Police Station
Thiruvallur District.

3.The Superintendent of Prison
Central Prison
Puzhal, Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, to direct the respondents to grant parole to the petitioner's husband Thiru.R.Parthiban, life convict, son of Rajendran, aged about 29 years, who is confined at Central Prison, Puzhal, Chennai for five days commencing from 23.04.2019 to 27.04.2019 and consider the representation of the petitioner dated 10.04.2019.

For Petitioner .. Mr.V.Parthiban

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

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is the wife of the detenu, namely R.Parthiban, who is a life convict and according to her, her mother-in-law viz., R.Pitchaiammal, the mother of the detenu had died on 23.02.2019 and in order to participate in the

funeral/cremation of his mother, the detenu was set on parole for one day i.e., on 23.02.2019 with police escorts and he had returned back to prison on 25.02.2019. Now, the petitioner is before this Court seeking to grant parole for her husband for 5 days commencing from 23.04.2019 to 27.04.2019, to enable the petitioner to participate in the rituals/funeral ceremony of his deceased mother.

2. Mr.V.Parthiban, learned counsel appearing for the petitioner would submit that final rites and ceremonies have to be performed on account of demise of the petitioner's mother and accordingly, it was proposed to be performed for two days i.e., on 25.04.2019 and 26.04.2019 at Mallanoor Village, Ramanathapuram District, in order to give peace to the departed soul, for which, the participation of the petitioner is absolutely necessary and therefore, prays for appropriate orders.

3. Per contra, Mr.C.Iyyappa Raj, learned Additional Public Prosecutor appearing for the State has drawn the attention of this Court to the counter affidavit dated 23.04.2019 filed by the Superintendent of Prisons, Central Prison-I, [Convict] Puzhal, Chennai - 600 066, wherein it would state that admittedly the detenu was granted one day parole with police escort on 23.02.2019 as emergency leave to attend his mother's funeral rites and he had returned back to the prison on 25.02.2019, and in the light of the Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, as a matter of right, the detenu cannot seek for parole/leave to attend the funerary (after death) ceremony and prays for dismissal of this order.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. The detenu is the younger son of the departed soul viz., R.Pitchaiammal and he seeks mercy of this Court to participate in the funereal rituals and ceremonies to be performed by the family members of the detenu at his native place on 25.04.2019 and 26.04.2019. The learned Additional Public Prosecutor appearing for the State prays for provision of sufficient police escort to the detenu, during his parole period.

6. This Court has enquired the learned Additional Public Prosecutor about the antecedents of the detenu, for which, the learned Additional Public Prosecutor, on instructions would submit that during the detenu's stay at prison, he has not come to any adverse notice.

7. In the light of the above facts and circumstances, this Habeas Corpus Petition is disposed of and parole is granted to the detenu viz., R.Parthiban [Life Convict Prisoner CT.No.6948]

for a period of three days i.e., on 25.04.2019, 26.04.2019 and 27.04.2019. The detenu shall return to the Central Prison, Puzhal-I, Chennai on 28.04.2018 before 3.00 P.M. The respondents are directed to provide sufficient police escort to the detenu for his security and safety, during his parole. The learned counsel appearing for the petitioner, on instructions, has assured that the expenses relating to provision of escort, will be met out by the family members of the detenu.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

ds

To:

- 1.The Chief Secretary
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009.
- 2.The Inspector of Police
Red Hills Police Station
Thiruvallur District.
- 3.The Superintendent of Prison
Central Prison
Puzhal, Chennai.
- 4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.V.Paarthiban, Advocate SR.No.39323

H.C.P.No.794 of 2019

KAN (CO)
GMY (26/04/2019)

WEB COPY