

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.16033 of 2019

1.Kalailingam @Kalai

2.Thiruselvam

(Now the petitioners confined
in the Central Prison, Madurai) ... Petitioners

Vs.

1. The Deputy Superintendent of Police,
National Investigation agency,
Hyderabad (Camp to Puducherry)
(R.C.No.1/2014/NIA/HYD)

2. The Superintendent of Prison
Central Prison,
Madurai-8.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to issue a direction to the respondents to release the petitioners namely 1) Thiruselvam S/o Raman and 2) Kalailingam S/o Raman, under trial prisoners, now confined in Central Prison, Madurai on leave for a period of five days in accordance with law.

For Petitioners : Mr.P.Pugalenthir

For R1 and R2 : Mr.R.Karthikeyan,
Special Public Prosecutor

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O R D E R

This petition has been filed for a direction to the respondents to release the petitioners with escort in order to attend to the death ceremony of their father.

2.The first petitioner had already filed a petition in Crl.O.P.No.12798/2019 before this Court, wherein he had sought for a similar direction in order to meet his father, who

was in a very critical situation at that point of time. This Court, by order dated 09.05.2019 directed the petitioners to be released by imposing certain conditions. The petitioners had complied with the conditions and had surrendered before the second respondent on 16.05.2019 as directed by this Court.

3.The learned counsel for the petitioners submitted that the father of the petitioners expired on 15.06.2019 and the funeral has also held on 16.06.2019. The petitioners were directed to attend the last rites. Now the ceremony is going to be held on 22nd , 23rd and 24th of June-2019 and the petitioners want to attend the said ceremony since they have to perform the same. The petitioners have made a representation to the respondents on 17.06.2019 in this regard. Since no action has been taken on the representation, the present petition has been filed before this Court.

4. Mr.R.Karthikeyan, learned Special Public Prosecutor appearing on behalf of the first respondent submitted that the petitioners are involved in a very serious offence and the case is at the stage of trial and therefore, permitting the petitioners to attend the ceremony will seriously affect the course of proceedings and there is also a chance of the petitioners involving themselves in committing further offences and threatening the witnesses. Therefore, the learned counsel vehemently opposed the grant of leave by this Court to the petitioners.

5.This Court has carefully considered the submissions made on either side counsels.

6.The petitioners have lost their father and they were not even permitted to do the last rites. The petitioners want to conduct the death ceremony to be held on 22nd , 23rd and 24th of June 2019. When permission was granted on an earlier occasion, the petitioners have complied with the conditions and there was no complaint of any witnesses being threatened.

7.On a humanitarian consideration, this Court deems it fit to grant permission to the petitioners to attend to the death ceremony of their father.

8.Accordingly, this Criminal Original Petition is disposed of with the following conditions:

a)The second respondent is directed to release the petitioners on 22.06.2019 at 10.00 A.M along with adequate security/Escort and permit the petitioners to go to the house of their father to conduct the death ceremony on 22nd, 23rd and 24th of June-2019.

b)The petitioners shall not move out of their house during the entire stay and there shall be no visitors, who will meet the petitioners at the time of their stay in the house, for performing the death ceremony.

c)The petitioners shall not have any access of mobile phones.

d)The local police shall provide sufficient security in and around the house to ensure that the petitioners are not move out of the house and there are unnecessary visitors getting into the house to meet the petitioners.

e)The petitioners shall surrender before the second respondent on 24.06.2019 by 5.30 P.M.

f)If the petitioners violate any one of these conditions imposed by this Court, it is open to the police to immediately to take the custody of the petitioners and confine them to the prison.

jrs/uma

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,
National Investigation agency,
Hyderabad (Camp to Puducherry)
(R.C.No.1/2014/NIA/HYD)

2. The Superintendent of Prison
Central Prison,
Madurai-8.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Karthikeyan, Advocate, SR.No.51035

+1cc to Mr.P.Pugalenth, Advocate, SR.No.51007

Cr1.O.P.No.16033 of 2019

Kak(21/06/2019)