

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.23210 of 2019

V.Sangeetha

... Petitioner

-vs-

1.The State of Tamil Nadu,
Represented by its Additional Chief Secretary
to Government,
Home (IV) Department,
Fort St. George,
Chennai.

2.The Inspector General of Prisons,
Prisons Department,
Whannels Road,
Egmore, Chennai-600 010.

3.The Superintendent of Prisons,
Central Prison,
Cuddalore.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the first respondent to grant ordinary leave period of one month to the petitioners husband Mr.N.Venkatesan, (undergoing sentence as Saravanan L.C. No.13263) presently serving his sentence of life imprisonment in Central Prison, Cuddalore, as prescribed under Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982 to arrange funds by mortgaging and by selling the properties belonged to the petitioner's husband to meet the children's educational expenses and other financial needs required to their family to close the debts.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for a direction to the 3rd respondent to grant ordinary leave to the husband of the petitioner who is undergoing life imprisonment at Central Prison, Cuddalore.

2.The husband of the petitioner was convicted for an offence under Section 302 of IPC and sentenced to life imprisonment in S.C.No.58 of 2000. This judgment was confirmed upto Supreme Court. The husband of the petitioner has been serving the sentence for nearly 10 years.

3.The petitioner gave a representation to the respondents seeking for ordinary leave on the ground that the property standing in the name of the husband of the petitioner will have to be sold to meet the educational expenses of the children. For this purpose the husband of the petitioner must be made available in person to undertake this process. This representation was given on 09.07.2018.

4.The 3rd respondent by an order dated 12.07.2018 rejected the request made by the petitioner.

5.The learned counsel for the petitioner submitted that Rule 20(II) of the Tamil Nadu Suspension and Sentence Rules, 1982 specifically provides that a convict shall be entitled to ordinary leave in order to make arrangements for the education of his children. The learned counsel submitted that this Court has considered a similar case and passed orders in WP(MD) No.21704 of 2018, dated 25.10.2018.

6.The Deputy Inspector General of Prisons, Vellore has filed a counter affidavit in this case. The only objection taken in the counter affidavit is extracted hereunder:

"9.I submit that the petitioner's representation dated: 09.07.2018 for seeking 03 Months ordinary leave to her husband namely N.Venkatesan S/o Natesan (undergoing sentence has Life convict No:13263 Saravanan S/o Driver Natesa gounder) was received by this office on 10.07.2018 and the petitioner was replied vide this office letter No.16831/R1/2018, dated: 12.07.2018."

7.It is also stated in the counter affidavit that the petitioner's husband has availed emergency leave for 28 days without escort and he returned back to the prison on the due date. It is further stated that the husband of the petitioner has completed the sentence of 10 years and 2 months till July 2019.

8.The learned Additional Public Prosecutor appearing on behalf of the respondents submitted that even though an objection has been raised in the counter affidavit to the effect that the petitioner is identified in the prison as Saravanan, there is no dispute regarding the fact that it is Venkatesan, who is the husband of the petitioner, who is also called as Saravanan.

9.This Court has carefully considered the submissions made on either side and the materials available on record.

10.A look at Rule 20 of the Tamil Nadu Prison Manual reveals the fact that a convict is entitled for an ordinary leave on certain contingencies. One such contingency is to make arrangements for the admission of the children in the school or college.

11.In the present case, the convict wants to sell a property standing in his name, in order to meet the educational expenses of his children and in order to meet the financial needs of the family. This contingency is covered under Rule 20 of the Tamil Nadu Prison Manual.

12.There is no adverse entry against the husband of the petitioner and in fact when he was let out on emergency leave without escort, on an earlier occasion, he had returned back to the jail on the due date. Therefore, the antecedents of the petitioner is also not under question.

13.Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the 3rd respondent to grant ordinary leave to the petitioner's husband from 20.08.2019 till 16.09.2019. The petitioner's husband shall be released from the jail on 20.08.2019 and he shall stay within the jurisdiction of Villupuram District. The husband of the petitioner shall report before the Brammadesam Police Station on every Monday, Wednesday and Friday at 10.30 a.m. without fail. It is open to the 3rd respondent to impose any other reasonable conditions during the period when the husband of the petitioner is let out on ordinary leave. The husband of the petitioner shall surrender before the 3rd respondent on 16.09.2019 by 05.00 p.m. without fail.

14.This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Chief Secretary
to Government,
Home (IV) Department,
Fort St. George,
Chennai.

2.The Inspector General of Prisons,
Prisons Department,
Whannels Road,
Egmore, Chennai-600 010.

3.The Superintendent of Prisons,
Central Prison,
Cuddalore.

4.The Public Prosecutor,
High Court, Madras.

Copy to

1.The Deputy Inspector General of Prisons,
Vellore Range, Vellore.

2.The Jailor,
Central Prison, Cuddalore.

3.The Inspector of Police,
Brammadesam Police station,
Veillupuram District.

4.The Chief Judicial Magistrate,
Villupuram District.

+1cc to Mr.Govind Chandrasekhar, Advocate Sr.69444

W.P.No.23210 of 2019

VGI[co]
srg 16/08/2019