

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16..08..2019
CORAM

The Honourable Mr Justice M.M.SUNDRESH
and
The Honourable Mr Justice M.NIRMAL KUMAR

Habeas Corpus Petition No.1679 of 2019

P.Durga Devi

... Petitioner

-Versus-

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Prison IV) Department,
Fort St. George, Chennai 600009.

2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai 600008.

3.The Superintendent of Central Prison,
Cuddalore.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, directing the respondents to produce the detainee R.Palanisamy, Life Convict No.16133, now confined in Central Prison, Cuddalore, before this court and direct the respondents to grant Parole to the detainee for a period of 30 days without police escorts pursuant to the representation of the petitioner dated 03.08.2019.

For Petitioner

: Mr.B.Nambi Selvan

For Respondents

: Mr.C.Iyyappa Raj, APP for
RR1 to 3

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ORDER

[Order of the court was made by Justice M.M.SUNDRESH]

The petitioner is the wife of the life convict, who has been under incarceration for for having committed offence under Section 392 r/w 397 of IPC. Apart from the above said case, he was also convicted and sentenced for a major offence punishable under Section 302 of IPC. The present petition has been filed seeking ordinary leave for making arrangements for payment of college fees for the daughter of the convict, who got admission in a Dental College and Hospital for B.D.S. course under Government payment quota.

2. The learned Additional Public Prosecutor based on the counter affidavit filed submitted that there is a statutory bar as Rule 21 of the Tamil Nadu Suspension of Sentence Rules, prohibits consideration for granting ordinary leave. He further submitted that the convict had already availed sufficient emergency leave over the years.

3. We do not find any reason to decline the relief sought for, especially, when the reason for ordinary leave is not in dispute. We have already dealt with the Rule 21 of the Tamil Nadu Suspension of Rules in a similar case. The said rule will not stand in the way either for premature release or for granting ordinary leave, when the sentence imposed for the offence under Section 392 read with 397 of IPC is already over. The petitioner has been under incarceration from 23.06.2005 onwards and the sentences will have to run concurrently. In such view of the matter, we are inclined to grant lave for two weeks subject to the usual conditions, however, without escorts.

4. In the result, the respondents are directed to grant ordinary leave to the convict for two weeks subject to the usual conditions that can be imposed by the respondents, however, without escorts. The convict shall be released from the prison at 10.00 a.m. on 21.08.2019 and that the convict shall return back to the prison at or before 05.00 p.m. on 05.09.2019. We make it clear that the day on which the convict is released from the prison and the day on which he is readmitted will have to be excluded from the leave. The petitioner shall report before the Inspector of Police, R.S.Puram Police Station, Coimbatore daily 10.00 a.m. during the period of leave except on the dates when the convict visits his daughter at Kancheepuram and on such dates, he shall report

before the Inspector of Police, Vishnu Kanchi Police Station, Kanchepuram District at 10.00 a.m. without fail.

5. In the result, the Habeas Corpus Petition is disposed of with the above directions.

List this matter on 12.09.2019 for reporting compliance.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kmk
To

- 1.The Secretary to Government, Home (Prison IV) Department, Fort St. George, Chennai 600009.
- 2.The Additional Director General of Prisons, Thalamuthu Natarajan
Maaligai, 2nd Floor, Gandhi Irwin Road, Egmore, Chennai 600008.
- 3.The Superintendent of Central Prison, Cuddalore.
- 4.The Joint Secretary to Government, Public (Law and Order), Secretariat, Fort St. George, Chennai 600009.
- 5.The Public Prosecutor, High Court, Chennai.
- 6.The Inspector of Police,
R.S.Puram Police Station, Coimbatore
- 7.The Inspector of Police, Vishnu Kanchi Police Station, Kanchepuram District
8. The Section Officer,
Criminal Section,
High Court, Madras

+1cc to Mr.B.Nambi Selvan , Advocate SR.No. 69632

A.SK(19/08/2019)

H.C.P.No.1679 of 2019

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