

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1832 of 2019

B.Mubeena

... Petitioner

-vs-

1.The Additional Director General of Prisons,
Egmore,
Chennai - 600 008.

2.The Superintendent of Central Prison,
Coimbatore - 18,
Coimbatore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to grant six days leave to the detenu S.A.Basha, S/o. Abdul Rahman, aged about 80 years, C.No.3244, now confined at Central Prison, Coimbatore without escort.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

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

The petitioner is the daughter of the convict seeking grant of leave without escort for six days.

2. When the matter is taken up for hearing, the learned Additional Public Prosecutor filed counter affidavit and submitted that the leave has been granted three days, of which, one day the convict has availed.

3. The learned counsel appearing for the petitioner submitted that the convict is entitled for more than three days. It is his further submission that even these remaining two days leave has been granted only from morning 8.00 a.m. to evening 6.00 p.m. The convict was granted leave by the order of this Court without even such a restriction. The respondents also once granted ten days leave without the aforesaid condition. As there is no change in circumstances, the convict will have to be given at least remaining five days emergency leave.

4. The learned Additional Public Prosecutor appearing for the State would submit that inasmuch as the convict has been granted three days emergency leave, of which he has availed one day, no further discretion will have to be extended to him. Considering the facts and circumstances of the case alone, the convict was asked to return back by 6.00 p.m.

5. The leave as sought for by the petitioner cannot be granted since the respondents themselves have granted three days leave, of which, one day was availed and therefore, the questions for consideration in this Habeas Corpus Petition are with respect to the granting of further leave and on the restriction imposed by the respondents.

6. We are not inclined to extend the leave any further other than the three days granted. Though it is submitted by the learned Additional Public Prosecutor that out of three days, one day has been availed and it is also restricted from 8.00 a.m. to 6.00 p.m. It is not in dispute that on the earlier occasion, by the orders of this Court, no such restriction has been imposed. Similarly, on one of the occasions, the respondents themselves granted leave without such restriction.

7. We have perused the communication sent by the Inspector of Police, B1, Bazar Police Station, Coimbatore to the Superintendent of Prisons, Central Prison, Coimbatore. This communication also does not say that there will be any likelihood of law and order problem.

8. In such view of the matter, we are inclined to grant three days emergency leave as granted by the respondents starting from 8.00 a.m. on 05.11.2019 to 6.00 p.m. on 07.11.2019. This order we have passed on the premise that there is no dispute with respect to the need for emergency leave and that is the reason why the respondents themselves have granted it. These three days leave as aforesaid would be without any restriction between 8.00 a.m. and 6.00 p.m. However, the aforesaid leave is subject to the providing adequate security by the respondents.

9. Accordingly, the Habeas Corpus Petition stands disposed of. The convict shall be released at 8.00 a.m. on 05.11.2019 and he shall return back to prison at 6.00 p.m. on 07.11.2019.

Post the matter 'for reporting compliance' on 08.11.2019.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Director General of Prisons,
Egmore,
Chennai - 600 008.
- 2.The Superintendent of Central Prison,
Coimbatore - 18,
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Section Officer,
Criminal Section,
High Court, Madras-104
- 5.The Joint Secretary,
The Government Public (L&O Department,
Fort St.George, Chennai-9

+1cc to Mr. R.Sankara Subbu Advocate, S.R.No.

H.C.P. No. 1832 of 2019

(CO)

ASK(04/11/2019)