



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P (MD) No.23860 of 2019

V.Sendurpandi

... Petitioner

Vs

1. The Additional Director General of Police
Inspector General of Prison
Whannles Road, Egmore, Chennai -8

2. The Superintendent Central Prison
Central Prison, Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to Call for the records of the impugned order passed by the 2nd respondent in No.18171/Thaku2/2019 dated 03.10.2019 and quash the same and consequently directing the respondent to grant parole to the Petitioners son namely Kalidas (Convict Prisoner No.5823) S/o. Sendurpandi, aged about 34 years who is undergoing sentence as life convict at present in Central Prison, Madurai for the period of 15 days for the purpose of arranging medical expenses to the petitioners wife and to assist his wife at the time of taking treatment based on the representation dated 30.09.2019

For Petitioner : Mr.M.Chandrabose

For Respondents : Mr.R.Anandharaj, APP for RR1 & 2

O R D E R

This writ petition has been filed to call for the records of the impugned order passed by the 2nd respondent in No.18171/Thaku2/2019 dated 03.10.2019 and quash the same and consequently directing the respondent to grant parole to the Petitioner's son namely Kalidas (Convict Prisoner No.5823) S/o. Sendurpandi, aged about 34 years who is undergoing sentence as life convict at present in Central Prison, Madurai for the period of 15 days for the purpose of arranging medical expenses to the petitioner's wife and to assist his wife at the time of taking treatment based on the representation dated 30.09.2019

2. The learned counsel for the petitioner submitted that the petitioner's son has been convicted for life sentence in S.C.No.238 of 2015 and the same has been confirmed by this Court. Now the son of the petitioner's son was detained in Central Prison, Madurai as life convict(Prisoner No.5823). While being so the mother of the petitioner is lying with illness and bed ridden. Therefore the son of the petitioner sought for leave for 15 days under the category of emergency leave.



3. Accordingly the petitioner is entitled for 15 days emergency leave in four spells and each spell should not cross six days. Therefore the second respondent rightly rejected the application for emergency leave for 15 days. Further the learned Additional Public Prosecutor submitted that he is also undergoing trial in Crime No.40 of 2010 on the file of Assistant Sessions Court, Mudukulathur . When the trial is pending, he is not entitled for any leave.

4. However, at this circumstances, it is also relevant to extract Rule 13 of Tamil Nadu Suspension of Sentence:

"The total period of emergency leave to be granted to the prisoner by the Superintendents of Prisons or the Inspector General of Police of Prison, as the case may be, shall be fifteen days in a year to be spread over four spells, subject to the maximum of six days in any one spell according tot he need of the prisoner on the occasion and the remaining nine days in three spells each spell not exceeding three days at a time and the decision of the Superintendent or the Inspector General of Prisons in deciding the duration of the spell shall be final. However, in exceptional cases, the Government may extend the period of emergency leave following the procedure prescribed in rule 34. Application for emergency leave for the fifth time in a year shall be submitted to Government for prior orders".

5. Accordingly the petitioner is entitled for emergency leave for death or serious illness of father or mother. His mother is ill and bed ridden. Therefore he is entitled for emergency leave not more than six days.

6. In view of the above discussions the impugned order is set aside and consequently the petitioner is directed to apply for fresh leave not more than six days under the category of emergency leave and on receipt of the same, the second respondent is directed to consider the same inview of the above discussions and pass orders forthwith

7. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Additional Director General of Police
Inspector General of Prison
Whannles Road
Egmore, Chennai -8

2. The Superintendent Central Prison
Central Prison, Madurai District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P (MD) No.23860 of 2019
13.11.2019

aav/Sma/28/11/19/ 3P 4C