



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1255 of 2019

Sathya

: Petitioner

Vs.

1.The Government of Tamilnadu

Rep. by its Secretary to Government

Home (Prison IV) Department,

Fort St. George, Chennai.

2.The Additional Director General of Prisons,

Thalamuthu Natarajan Maaligai

2nd Floor, Gandhi Irwin Road,

Egmore, Chennai.

3.The Superintendent of Central Prison,

Central prison, Tiruchirappalli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents herein to produce the detenu Seenu @ Srinivasan, life Convict No.17296 now confined in Central Prison, Trichy before this Court and direct the respondents to grant parole to the detenu for a period of 30 days without police escort on medical ground in pursuant to the petitioner's representation dated 11.11.2019.

For Petitioner

: Mr.S.Ravi for

M/s.B.Nambiselvan

For Respondents

: Mr.K.Dinesh Babu

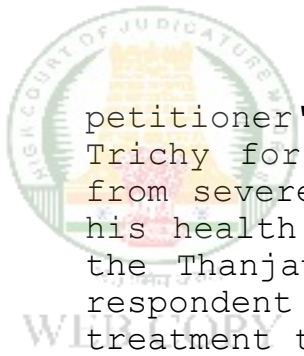
Additional Public Prosecutor

ORDER

(Order of the Court was made by T.RAJA., J)

The petitioner is the wife of the life convict, viz., Seenu @ Srinivasan, who has been convicted under Section 302 r/w 34 IPC by the I Additional Sessions Judge, Thanjavur, vide judgment dated 01.12.2008 and confirmed subsequently by this Court in CrI.A.(MD) No.2/2009 vide judgment dated 04.09.2015. Now, the petitioner is before this Court with this Habeas Corpus Petition for granting 30 days leave to the life convict on medical grounds.

2.Learned counsel for the petitioner contended that the



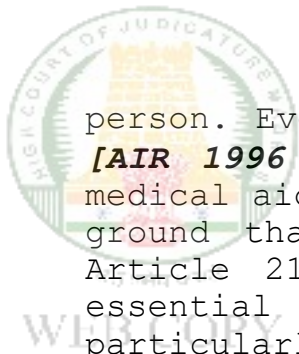
petitioner's husband is undergoing life sentence in Central Prison, Trichy for the last eight years. However, he has been suffering from severe brain stroke resulting in seizures from 16.10.2019. As his health condition was deteriorating day by day, he was taken to the Thanjavur Medical College Hospital on 26.10.2019 by the third respondent and he was admitted as inpatient and he was given treatment till 31.10.2019. He further contended that in spite of the treatment given, there is no improvement and the life convict has lost his speech, hence he was referred to M.K. Hospital, where the life convict was treated for a period of 30 days and a certificate was given stating that the life convict is in need of further treatment. With this certificate, the petitioner has preferred a representation dated 11.11.2019 to the respondent seeking an order granting 30 days parole to take medical treatment.

3. Learned Additional Public Prosecutor submitted that the petitioner's husband has already been granted ordinary leave and emergency leave for a considerable period of time and he was also given regular treatment in the Government Hospital and hence, opposed the grant of parole to the life convict.

4. It is seen that while considering the said representation, the third respondent vide his communication dated 26.11.2019 admitted that the petitioner's husband was granted emergency leave of 15 days and ordinary leave of thirty days for the said treatment, but the disease has not yet been cured. However, the certificate issued by the M.K.Hospital at Thanjavur clearly shows that the life convict has to undergo certain continuous treatment for better improvement of his health condition.

5. Now the crux of the issue is whether the prisoner, who is a convict entitled for the right of medical aid.

6. The expression 'personal liberty' enshrined in Article 21 of the Constitution of India includes right to health and medical care, because prisoner is a human being and notwithstanding his imprisonment he is entitled to right of life and personal liberty guaranteed under Article 21 of the Constitution of India. Hence his right and personal liberty cannot be taken away or curtailed except according to the procedure established by law. They have the right to petition for redress of grievances, which included access to the Courts for the purpose of presenting their complaints. Reference may be had from ***Ex parte Hull, 312 U.S. 546 (1941); White v. Ragen, 324 U.S. 760 (1945)***. The Hon'ble Apex Court in ***Occupational Health and Safety Association v. Union of India [AIR 2014 SC 1469]*** ruled that the right to health and medical care to protect one's health and vigour, while in service or post-retirement, is a fundamental right of a worker under Article 21 read with Articles 39(e), 41, 43, 48-A and all related Articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of



person. Even in ***P.Paschim Bang Khet Majdoor Samit v. State of W.B.*** [AIR 1996 2426] the Hon'ble Apex Court has held that denial of medical aid by the Government's hospital to an injured person on the ground that the beds are not available amounts to violation of Article 21. Therefore, when right to health and medical aid is essential for making the life of the workmen meaningful more particularly when the right to life includes personal liberty guaranteed by Article 21, such a constitutional obligation cannot be avoided by the State. Since right to life is something more as mere survival or animal existence. It definitely entitled to minimum right to health and medical care.

7. In view of the facts and circumstances of the case and considering the fact that the petitioner's husband is suffering from brain stroke and he has to undergo better treatment, though he has utilised the minimum leave period, pursuant to the certificate issued by the Doctor and he has not shown any improvement, this Court is inclined to grant thirty days leave for the life convict to undergo treatment.

8. Accordingly, the life convict, viz., Seenu @ Srinivasan is entitled for thirty days leave from 03.12.2019 and he has to surrender before the third respondent on 03.01.2020 without fail.

9. Post this matter 'for reporting compliance' on 06.01.2020.

Sd/-

Assistant Registrar

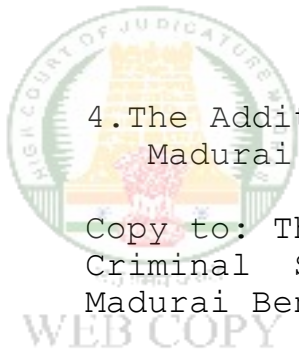
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Sub Assistant Registrar(CS)

RR

To

- 1.The Secretary to Government,
The Government of Tamil Nadu,
Home (Prison IV) Department,
Fort St. George, Chennai.
- 2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai.
- 3.The Superintendent of Central Prison,
Central prison, Tiruchirappalli



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

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.NAMBI SELVAN, Advocate (SR-102923[F] dated
02/12/2019)

H.C.P. (MD)No.1255 of 2019

Dated: 02.12.2019

KK/SAR/02.12.2019/4P-7C/