

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.8203 of 2020

Rajkumar

... Petitioner

Vs.

1. The Superintendent of Central Prison,
Puzhal -1,
Central Prison,
Chennai -66.
2. State through The Sub Inspector of Police,
E-3, Thenampet Police Station,
Chennai.
Crime No.1771 of 2016

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus to direct the 1st respondent to extend the parole period granted to the petitioner vide proceedings dated 10.05.2020 of the 1st respondent, till the completion of lock down period due to Covid-19 based on the petitioner's representation dated 06.06.2020.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

This Writ petition has been filed seeking for extension of the emergency leave granted to the petitioner.

2. It is seen from records that the petitioner was undergoing incarceration after he was convicted by the trial Court. In the meantime, the petitioner's mother expired and therefore, emergency leave was granted to the petitioner by the Superintendent of Central Prison, Puzhal, Chennai, permitting the petitioner to attend the funeral. The petitioner claims that he was taken by his relatives from Chennai to Tirunelveli by car.

3. The funeral ceremony got over and in spite of the same, the petitioner continues to stay at Tirunelveli on the ground that he is not able to come back to Chennai, due to non availability of transport facilities. The period of emergency leave expired on 01.06.2020. Therefore, the petitioner is seeking for the extension of the emergency leave, till the lock down period is over.

3. The learned counsel for the petitioner submitted that the petitioner has already filed an appeal before the Sessions Court against the order of conviction and sentence and the same has been filed with a delay. The learned counsel further submitted that the petitioner is not in a position to travel from Tirunelveli to Chennai.

4. The learned Additional Public Prosecutor appearing on behalf of the respondents submitted that the stay of the petitioner at Tirunelveli beyond 01.06.2020, is illegal. The learned counsel further submitted that the petitioner is taking advantage of the lock down period and has not surrendered before the Superintendent of Central Prison at Puzhal, Chennai. It was further contended that the petitioner without getting any suspension of sentence in the appeal is indirectly approaching this Court seeking for extension of emergency leave and thereby, he is continuing to remain outside the jail. Therefore, the learned Additional Public Prosecutor seeks for dismissal of this petition.

5. This Court has carefully considered the submissions made on either side.

6. This Court finds force in the submissions made by the learned Additional Public Prosecutor. The petitioner ought to have at least surrendered before the concerned Court in Tirunelveli and continued to undergo the sentence at Tirunelveli jail, till he is transferred to the Prison in Chennai. Such a contingency is contemplated under the prison Rules. In the meantime, the petitioner could have worked out his remedy in the appeal seeking for suspension of sentence. Without doing the same, the petitioner is trying to take advantage of the situation and is continuing to stay at Tirunelveli beyond the period of emergency leave granted by the Superintendent of Central Prison, Puzhal. This Court is not inclined to extend the period of emergency leave.

8. The petitioner is directed to surrender before the Principal District and Sessions Court, Tirunelveli, within a period of two days from today. On such surrender, the petitioner shall be confined at Central Prison, Palayamkottai. In the meantime, it is always open to the petitioner to move the

concerned Court seeking for suspension of sentence and work out his remedy in accordance with law.

9. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rli/rka

To

1. The Principal District and Sessions Court,
Thirunelveli
2. The Superintendent of Central Prison,
Puzhal -1,
Central Prison,
Chennai -66.
3. The Sub Inspector of Police,
E-3, Thenampet Police Station,
Chennai.
4. The Superintendent of Prison, Palayamkottai.
5. The Public Prosecutor, Chennai

W.P.No.8203 of 2020

SVI (CO)
KKV/23/07/2020

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