

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Nineteenth day of June Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE T.S.SIVAGNANAM

AND

THE HON`BLE MRS JUSTICE PUSHPA SATHYANARAYANA

WMP No.9845 of 2020

IN WP.8237/2020

1 DR. ESTHER M.B.B.S DGO [PETITIONER]
W/O. DR.T.MARIMUTHU NO 22/4
BKV NAGAR III
STREET ADYAR CHENNAI-20.

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REP BY ADDL CHIEF SECRETARY
TO GOVERNMENT DEPARTMENT
OF HOME (PRISON IV) FORT.ST.
GEORGE CHENNAI-9.

2 THE ADDITIONAL DIRECTOR GENERAL OF POLICE,
INSPECTOR GENERAL OF PRISONS
EGMORE CHENNAI-8.

3 THE SUPERINTEDENT OF PRISON
CENTRAL PRISON- 1 PUZHAL CHENNAI-66.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Seeking the relief of Interim release of the Petitioner's son (IN WMP.NO.9845 OF 2020) pending disposal of the main Writ Petition NO.8237 OF 2020.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.Ramesh, Senior Counsel FOR MR G.R. HARI, Advocate for the petitioner and of MRS.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

O R D E R

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

We have elaborately heard Mr.A.Ramesh, learned Senior Counsel appearing for Mr.G.R.Hari, learned counsel on record for the petitioner and Mrs.Prabhavathi, learned Additional Public Prosecutor appearing for the respondents.

2. The learned Senior Counsel appearing on behalf of the petitioner seeks to grant emergency leave or however short period of leave it may be, to John David - a life convict, who is presently confined in Central Prison-I, Puzhal, Chennai-66, to meet his ailing mother, who is stated to be suffering from terminal illness.

3. The learned Additional Public Prosecutor raised a preliminary objection with regard to grant of interim relief. It is submitted that in the miscellaneous petition, the petitioner seeks interim release of her son - a life convict whereas the main prayer in the writ petition is to quash the Government Order in G.O.(D). No.372 Home (Prison IV) Department dated 22.7.2019. It is further submitted that the said Government Order was passed rejecting the release of the son of the petitioner as premature and that the interim relief sought for in the miscellaneous petition does not flow from the relief sought for in the main writ petition.

4. We have carefully considered the submissions of the learned counsel on either side.

5. The learned Additional Public Prosecutor is right in her submission that the petitioner seeks an interim relief, which does not flow from the prayer sought for in the main writ petition. Furthermore, the learned Additional Public Prosecutor is also right in her submission that a counter has to be filed by the State in the main writ petition for us to take a decision, as the order impugned in the main writ petition is an order passed by the Government.

6. After hearing the learned Additional Public Prosecutor, for such a preliminary objection raised by the learned Additional Public Prosecutor, the learned Senior Counsel appearing on behalf of the petitioner, fairly replied that the interim prayer sought for may not be appropriate and that this Court may consider the case of the detenu on humanitarian ground and grant emergency leave to the detenu so as enable him to see his mother for a short while.

7. In the light of the above discussion, **WMP.No.9845 of 2020 is rejected. However, taking note of the submissions made by the learned Senior Counsel appearing on behalf of the petitioner, we grant emergency leave to the petitioner's son -John David - life convict, detenu No.4897, presently confined in Central Prison-I, Puzhal, Chennai-66 from 22.6.2020 to 30.6.2020 without escort. We make it clear that the detenu shall report before the Central Prison-I, Puzhal, Chennai-66 on 30.6.2020 at 5 p.m without fail.**

8. **The respondents are directed to file a counter in the main writ petition within two weeks.**

-sd/-

19/06/2020

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDL CHIEF SECRETARY TO GOVERNMENT
STATE OF TAMIL NADU
DEPARTMENT OF HOME (PRISON IV) FORT.ST.
GEORGE CHENNAI-9.

2 THE ADDITIONAL DIRECTOR GENERAL OF POLICE,
INSPECTOR GENERAL OF PRISONS
EGMORE CHENNAI-8.

3 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON- 1 PUZHAL CHENNAI-66.

4 MRS.PRABHAVATHI,
ADDITIONAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to MR.G.R. HARI Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order
in
WMP.9845/2020

in
WP.8237/2020

Date :19/06/2020

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