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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.1159 of 2020

T.Angayarkanni ... Petitioner/Wife of the detenue

Vs

1.The Home Secretary (Prison),
Home Department,
Secretariat, Fort St George,
Chennai - 600 009.

2.The Additional Director General of Prison (ADGP),
Office of the ADGP,
No.2, Gandhi Irwin Road, CMDA Building,
Egmore, Chennai - 600 008.

3.The Superintendent of Police,
Central Prison - Puzhal I,
Tiruvallur - 600 066.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, directing the respondents to grant of leave for a period of one month without escort to the Petitioner's husband Tamil @ Tamil Selvan S/o.Chinnaiyah (Convict Prisoner No.2440) aged about 54 years, now confined in the Central Prison at Puzhal - I, before this Hon'ble Court and further directing the respondents to consider him immediately for the leave and for consequential orders.

For Petitioner : Mr.M.Mohamed Saifullah.

For Mr.E.K.Kumaresan

For Respondents: Mrs.M.Prabhavathi,

Additional Public Prosecutor

O R D E R

(Order of the court was made by N.KIRUBAKARAN, J.)

The matter is heard through video-conferencing.



2.This petition has been filed by the wife of the convict seeking leave for a month as has been convicted for three years imprisonment for the offence under Sections 109 read with 364 of Indian Penal Code in SC.No.03 of 2003 by the learned Additional Sessions Judge, Poonamallee.

3.The learned Counsel for the Petitioner submitted that the convict has already undergone one year and four months of imprisonment. He further submitted that the convict has got two daughters who are studying degree and the presence of the convict is necessary for managing the family expenses and for the educational expenses of his daughters. Hence, he prays for granting leave to the Petitioner.

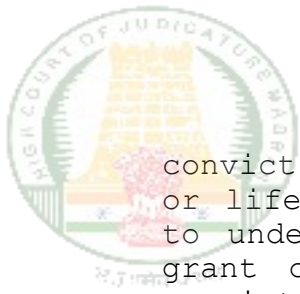
4.However, the learned Additional Public Prosecutor submitted that as per the Prison Rules, to get an ordinary leave, the convict has to undergo a minimum imprisonment for a period of two years and hence, opposed for granting leave to the Petitioner.

5.Heard Mr.M.Mohamed Saifullah, learned Counsel appearing for the Petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondents.

6.Taking into consideration of the fact that the convict has already undergone the imprisonment of one year and four months and the total conviction itself is only for three years, this Court is inclined to grant one month ordinary leave to the petitioner viz., Tamil @ Tamil Selvan S/o.Chinnaiyah (Convict Prisoner No.2440) aged about 54 years, now confined in the Central Prison at Puzhal - I, so as to enable him to arrange funds for his daughters' educational expenses, without police escort commencing from 09.07.2020 to 07.08.2020. The detenu shall be released at 11 a.m. on 09.07.2020 and he shall return back to prison on 08.08.2020 at 6 p.m. During the said period, the petitioner shall appear before R7-K.K.Nagar Police Station, Chennai on every Monday at 11 a.m.

7.In the result, this petition is allowed.

8.From the submissions made in this case, this Court is of the view that the Prison Rules has to be amended as the prison authorities cannot impose the same rules on the convict who has been sentenced with imprisonment for two or three years with the



convict who has been sentenced with imprisonment for many years or life imprisonment. If the same rule, viz., the convict has to undergo imprisonment for a minimum period of two years for grant of leave is followed uniformly for release of all the convicts, the same will prejudice the rights of the convicts. Hence, the said rule shall be amended for the convicts who have been sentenced with imprisonment for two to five years.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Home Secretary (Prison),
Home Department,
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- 4.The Additional Public Prosecutor,
High Court of Madras,
Chennai.

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srg 10/07/2020