

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 1485 of 2020

Parijam

... Petitioner

vs

The State represented by its

1.The Secretary to Government of Tamilnadu,
Department of Home,
Fort St.George, Chennai 600 009.

2.The Deputy Inspector General,
Central Prison Kovai,
Kovai - 641 018.

3.The Superintendent,
Central Prison, Kovai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents to grant leave for 30 days to my husband, the detenu, Shahul Hameed, aged about 48 years, Convict No.18818, detained at Central Prison, Kovai.

For Petitioner .. Dr.S.Manoharan

For Respondents... Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the wife of the detenu. The present habeas corpus petition has been filed seeking thirty days ordinary leave on the ground that he has to make arrangement for partitioning the properties of the family.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Learned counsel appearing for the petitioner submitted that the presence of the convict is required for the aforesaid purpose. On the earlier occasion, this Court granted ordinary leave in favour of the convict which was challenged before the Apex Court in SLP(Criminal) Diary No. 18049 of 2019. An order was passed dismissing the same, with the observation to watch the conduct of the convict in the aforesaid period of two months for which leave was granted. Liberty was given to the respondents to initiate action against the convict if he commits any offence or acts contrary to the undertaking given apart from acting in violation of the Rules governing.

4. Learned counsel appearing for the petitioner submitted that no further order has been passed after the order dated 15.07.2019. Thus, the convict will have to be granted a further period of thirty days ordinary leave. A submission has been made that though the respondents considered the request of the convict, it was restrictive in nature, as such the release is confined only during the day time.

5. Learned Additional Public Prosecutor appearing for the respondents submitted that the report of the jurisdictional police suggests that the convict can be considered for ordinary leave during day time as there is a likelihood of life threat being exerted against the convict at the hands of the third parties, though he may not indulge in any such activity.

6. The interim order passed by the Apex Court also stays the order of the Division Bench of this Court and in any case, the same has been given effect to.

7. In the case on hand, the request made by the petitioner was considered partially by the respondents, by taking into consideration the fact that there is a likelihood of danger to the life of the convict at the hands of the unnamed persons. The fact that the convict was given two months parole and there was no attempt of life threat cannot be a ground to review the decision made by the respondents on enquiry. This report is subsequent to the order of the Apex Court and the reason assigned is different. At the cost of repetition, we may state that we are not concerned with the conduct of the convict per se but the life threat that is likely to be made on him. This is the new issue which has to be considered in the light of the report given by the local police.

8. Thus, in view of the above, we are not inclined to allow this habeas corpus petition. However, inasmuch as the life convict has already been given restricted leave during day time, the same shall continue on the same terms as ordered by the

respondents. In such a case, the restricted leave shall start from 16.10.2020 onwards.

The habeas corpus petition stands disposed of accordingly.

Sd/-
Assistant Registrar(CS)

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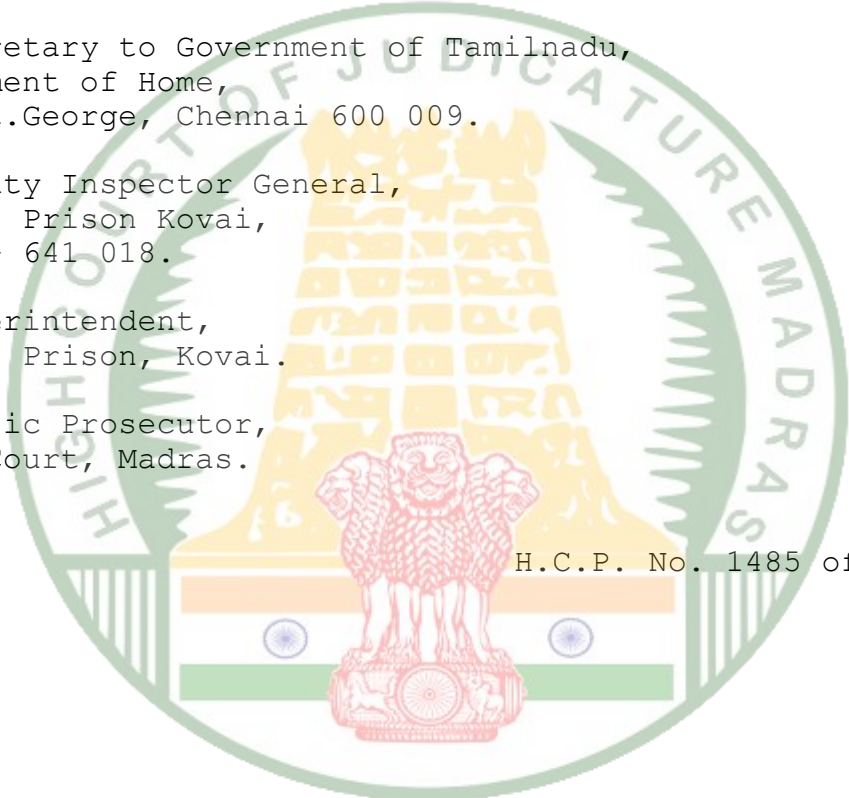
Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamilnadu,
Department of Home,
Fort St.George, Chennai 600 009.
- 2.The Deputy Inspector General,
Central Prison Kovai,
Kovai - 641 018.
- 3.The Superintendent,
Central Prison, Kovai.
- 4.The Public Prosecutor,
High Court, Madras.

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H.C.P. No. 1485 of 2020

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the lion capital is a red wheel. The entire emblem is set against a background of horizontal stripes (green, white, and green). The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular border around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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