

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

Coram

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

H.C.P. No.1537 of 2020

Cecilia

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep. by its Secretary to Government,
Home (Prison) Department,
Secretariat, Chennai - 600 009.
- 2.The Additional Director General of Prison,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
- 3.The Superintendent of Central Prison,
Central Prison, Cuddalore,
Cuddalore District.
- 4.The Inspector of Police,
Auroville Police Station,
Villupuram District
Crime No.310 of 2003.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to calling for the records relating to the order passed by the third respondent in No.10705/Tha.Ku.2/2020 dated 22.07.2020, quashing the same and directing the respondents to produce the detenu Thambu @ Karthick (Male/43 years) (Prisoner No.14616) who is confined in Central Prison, Cuddalore before this Court and grant 30 days ordinary leave (parole) to the detenu.

For Petitioner : Mr.S.Doraisamy

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 mother of the convict-Thambu @ Karthick. This habeas corpus petition has been filed by the petitioner seeking to quash the order dated 22.07.2020 with the consequential direction to release him on parole so as to facilitate the successive surgery.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.The learned counsel for the petitioner submitted that the petitioner is suffering from cancer in the other breast than the one, which was removed already by way of surgery and this part of the body also requires to be removed. For the aforesaid purpose, the presence of the convict, who is none other than the son of the petitioner, is required.

4.Learned Additional Public Prosecutor appearing for the State, on instructions, submitted that the Report would suggest that the earlier surgery was done in the year 2012 and thereafter, the petitioner is taking treatment. The convict did not appear before the Court at the time of rendering conviction and he was produced before the Court by the police after securing him. Thus, the petition requires to be dismissed, particularly, when he is incarcerated only for the period of five months contrary to what is contained in Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982.

5.Upon hearing both sides, it is clear that Rule 22 of the Rules would certainly act as an embargo. However, the reports filed would indicate that the petitioner is suffering from cancer apart from the surgery done earlier, it appears that it developed secondaries. Therefore, at present, the requirement of the petitioner is the surgery. The fact that the convict is the son of the petitioner is not in dispute.

6.In such view of the matter, while declining the request of the petitioner for ordinary leave, we direct the respondents to grant 10 days emergency leave to the convict so as to enable the petitioner to undergo the treatment, including the surgery, subject to the usual conditions that can be imposed. Accordingly, the convict is granted ten(10) days emergency leave from 16.10.2020 to 25.10.2020 with minimum escort. The convict shall be released at 10.00 a.m., on 16.10.2020 and he shall return back to the prison on 25.10.2020 at 5.00 p.m.

7. With the above direction, the Habeas Corpus Petition stands disposed of. Post the matter 'for reporting compliance' on 28.10.2020.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Government of Tamil Nadu
Home (Prison) Department,
Secretariat, Chennai - 600 009.
- 2.The Additional Director General of Prison,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
- 3.The Superintendent of Central Prison,
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- 4.The Inspector of Police,
Auroville Police Station,
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Crime No.310 of 2003.
- 5.The Public Prosecutor,
High Court, Madras.

Copy To
The Section Officer,
Criminal Section,
High Court, Madras.

H.C.P. No. 1537 of 2020

LN(CO)
GMY(19/10/2020)