

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

Coram

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

H.C.P. No. 1735 of 2020

Fazila ... Petitioner/Wife of the detenue

-vs-

The State represented by

1.The Secretary to the Government
of Tamil Nadu, Department of Home,
Fort St.George, Chennai - 9.

2.The Deputy Inspector General of Prison,
Kovai Zone, Kovai Central Prison,
Kovai.

3.The Superintendent,
Central Prison, Kovai. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus directing the respondents to grant leave for 30 days without escort to the detenu Mohammed Azam, S/o.Johan Basha, aged about 42 years, the Life convict prisoner, bearing Convict No.10709 detained at Central Prison, Kovai.

For Petitioner : Mr.S.Pandiyan

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

ORDER

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

The petitioner, who is the wife of the convict, seeks release of the convict to take steps to have the child.

2.Learned counsel appearing for the petitioner submits that the petitioner married the convict two years back and they do not have child. Therefore, leave has been sought for, for taking infertility treatment.

3.Learned Additional Public Prosecutor appearing for the respondents submits that though the reason assigned appears to be correct, the Probation Officer has not made recommendation in view of the pandemic situation.

4.We have perused the Probation Officer's report. The very prevalence of the pandemic by itself cannot be a sole ground for not granting leave. Of late, the number of positive cases has got reduced considerably. More over, the residence of the convict is at Coimbatore and he has been granted emergency leave on the earlier occasion.

5.In such view of the matter, we are inclined to direct the respondents to grant leave to the convict for three weeks with minimum escort subject to the usual conditions that can be imposed by the respondents. The convict shall be released from the prison at 10.00 a.m. on 09.11.2020 and he shall return back to the prison at 05.00 p.m. on 30.11.2020.

6.We also make it clear that the convict will have to undergo COVID 19 test before his release and after his return.

7.With the above directions, this Habeas Corpus Petition is disposed of.

Post the matter 'for reporting compliance' on 01.12.2020.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm
To

1.The Secretary to the Government
of Tamil Nadu, Department of Home,
Fort St.George, Chennai - 9.

2.The Deputy Inspector General of Prison,
Kovai Zone, Kovai Central Prison,
Kovai.

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3.The Superintendent,
Central Prison, Kovai.

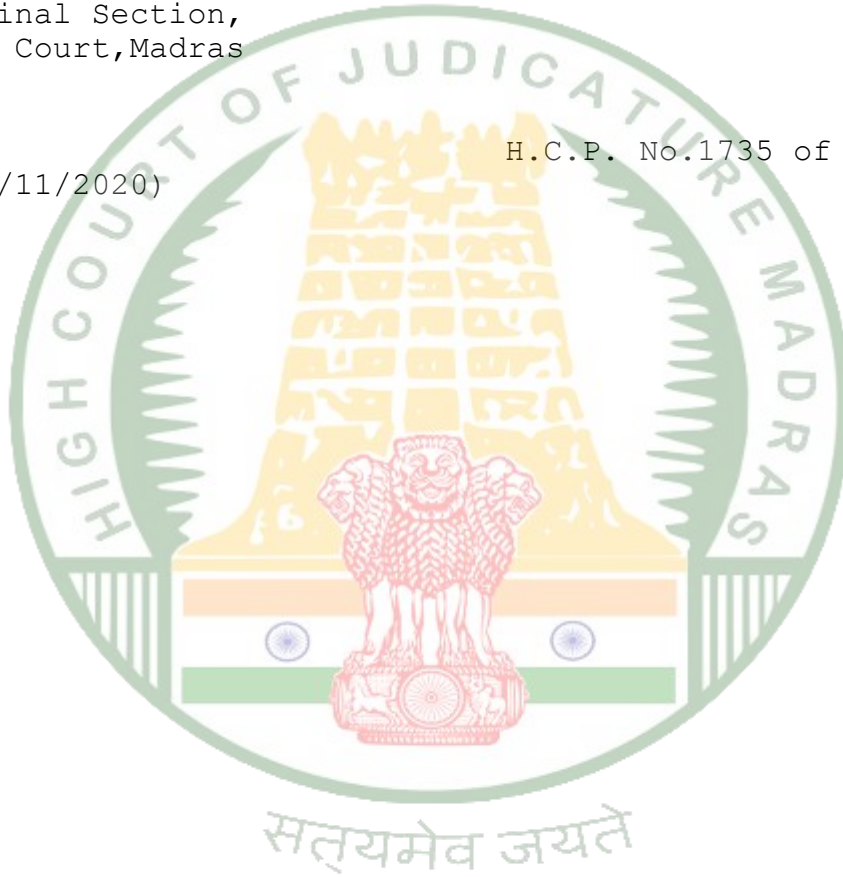
4.The Joint Secretary to Government,
Public (Law and order) Fort.St.George, Chennai 9.

5.The Public Prosecutor,
High Court, Madras.

Copy to;
The Section Officer,
Criminal Section,
High Court, Madras

A.SK(09/11/2020)

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