

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Sixth day of November Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE M.M.SUNDRESH

and

THE HON`BLE MR JUSTICE D.KRISHNAKUMAR

WMP No.19893 of 2020

in WP.No.8642 of 2020

MRS.T.ARPUTHAM

[PETITIONER]

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REPRESENTED BY THE HOME SECRETARY,
DEPARTMENT OF HOME, GOVERNMENT OF TAMIL NADU,
FORT ST. GEORGE, CHENNAI -9.

2 DIRECTOR GENERAL OF POLICE AND
INSPECTOR GENERAL OF PRISONS, WHANNELS
ROAD, EGMORE, CHENNAI-600 008.

3 THE SUPERINTENDENT OF PRISONS
CENTRAL PRISON-I, PUZHAL, CHENNAI-600 066.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to directing the 1st Respondent to extend the period of ordinary leave to petitioner's son Mr.A.G.Perarivalan (Life Convict Prisoner No.7640) from 09.11.2020 to 09.12.2020 (in WMP.No.19893/2020 in WP.No.8642/2020)

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.CHANDRASEKAR for M/S.S.SARAVANAN, Advocate for the petitioner and of MR.R.PRATHAP KUMAR Addl. Public Prosecutor for the respondents the court made the following order:-

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

The petitioner seeks extension of ordinary leave granted by this Court on the sole premise that the purpose for which which has been granted has not been achieved.

2.Learned counsel appearing for the petitioner submitted that the treatment has not been completed and this Court has already extended the power of relaxation in favour of the convict. The order passed has become final inter se parties.

3.Learned Additional Public Prosecutor appearing for the State submitted that Rule 22(3) of the Tamil Nadu Suspension of Sentence Rules, 1982 acts as an embargo and, therefore, the request made will have to be rejected.

4. While granting the order in favour of the convict on 24.09.2020, it has been held as under:-

"19. In view of the undisputed facts regarding multiple co-morbid illness being suffered by the petitioner's son, his chances of getting infection being higher and not being given treatment in Government General Hospital as well as Stanley Medical College Hospital due to pandemic situation and ripe age and illness of the parents of the convict, who is away from them for the past 29 years, it is appropriate to direct the Government to grant 30 days leave to the petitioner's son relaxing Rule 22(3) under Rule 40 of the Rules, for the reasons stated above, within one week from the date of receipt of a copy of this order and the leave granted is subject to the satisfaction of the following terms and conditions and other relevant provisions of the Tamil Nadu Suspension of Sentence Rules, 1982 as imposed in paragraph Nos. 4 & 5 of G.O. (2D) No.300 Home (Pri.III) Department dated 23.09.2017."

5. As submitted by the learned counsel appearing for the petitioner, the aforesaid order has become final inter se parties. Thus, we cannot go into the legality of the said order passed. Furthermore, the respondents have accepted the said order. The convict seeks extension only on the strength of the order aforesaid. Secondly, the reason assigned is not disputed as the convict requires further treatment.

6. Thus, considering the aforesaid peculiar facts, we are inclined to extend the leave granted for a further period of two weeks from the date of expiry on the same terms and conditions of the time granted by this Court by the earlier order dated 24.09.2020. The convict shall return back to the prison on 23.11.2020 at 5.00 p.m. It is clear that no further extension will be granted.

7.We also make it clear that the convict will have to undergo COVID 19 test after his return.

8.With the above directions, this miscellaneous petition is disposed of.

9. Post the matter 'for reporting compliance' on 24.11.2020.

-sd/-

06/11/2020

/ TRUE COPY /

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

TO

1 THE HOME SECRETARY,
GOVERNMENT OF TAMIL NADU, DEPARTMENT OF
HOME, GOVERNMENT OF TAMIL NAU,
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3 THE SUPERINTENDENT OF PRISONS
CENTRAL PRISON-I, PUZHAL, CHENNAI-600 066.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

Order

in

WMP.19893/2020

in

WP.No.8642 of 2020

Date :06/11/2020

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KP(09/11/2020)