



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.03.2020
CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

W.P. (MD)No.4723 of 2020
and
W.M.P. (MD)No.4095 of 2020

A.P.Ganesan

... Petitioner

Vs

1.State of Tamilnadu

Rep. by the Principal Secretary to Government,
Home (Prison V) Department,
Secretariat, Fort St.George, Chennai - 600 009.

2.The Superintendent of Police,
O/o. Superintendent of Police,
Central Prison, Madurai District,
Madurai.

... Respondents

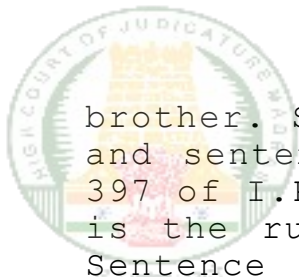
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.4849/ThaGu2/2019 on the file of the respondent No.2 dated 26.03.2019 and quash the same as illegal and consequently directing the respondents to provide ordinary leave to the petitioner's brother namely., Balu @ Balasubramani (C.P.No.4754-Central Prison, Madurai) on parole for one month for effecting settlement the petitioner's property by way of partition, name transfer, maintenance, sale etc. and permit the petitioner's brother to visit his properties in, Virudhunagar District and to meet his lawyer, relatives to go to hospital, temples, register office and other places which similarly situated leave prisoner would be allowed.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.M.Ananthadevi
Govt. Advocate (Crl. Side)

ORDER

The petitioner's brother namely., Balu @ Balasubramani (C.P.No.4754-Central Prison, Madurai) is a life convict. He is in Central Prison, Madurai since the year 2007. The petitioner submitted an application for grant of ordinary leave for his



brother. Since the the petitioner's brother has been convicted and sentenced for the offences that include Section 394 r/w. 397 of I.P.C., he may not be entitled to ordinary leave. This is the rule position. Rule 21(b) of Tamilnadu Suspension of Sentence Rules, 1982, states that the prisoners sentenced under Sections 392 to 402 of I.P.C., shall not be eligible for ordinary leave. But then the Government has the power to exempt any person from all or any of the provisions of these rules. Rule 40 provides for the same.

2.The impugned order dated 26.03.2019 has been passed by the second respondent. When Rule 40 confers the power to exempt on the first respondent, second respondent ought to have forwarded the petitioner's application to the first respondent.

3.In this view of the matter, the second respondent is directed to forward the petitioner's application dated 26.03.2019 to the first respondent. The first respondent shall decide the same on merits and in accordance with law within a period of eight weeks from the date of a receipt of a copy of this order.

4.The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

- 1.The Principal Secretary to Government,
State of Tamil Nadu, Home (Prison V) Department,
Secretariat, Fort St.George, Chennai - 600 009.
- 2.The Superintendent of Police,
O/o. Superintendent of Police,
Central Prison, Madurai District, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10412[F]

W. P. (MD) No. 4723 of 2020

05.03.2020

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<https://hccs.courts.gov.in/Doc2/0es/2P-5C>