



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P(MD)No.10145 of 2020

Saraswathi

... Petitioner

Vs.

1.The Additional Director General of Police(Prisons),
Gandhi Irwin Road, Egmore, Chennai.

2.The Superintendent of Central Prison,
Central Prison, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the second respondent to grant ten days ordinary leave/parole to the petitioner's brother namely Tamilveeran (C.P.No.5448), son of Muthu, who is undergoing sentence as life convict in Central Prison, Madurai, from 27.08.2020 to 05.09.2020, for attending Eemakriyai rituals relating to the petitioner's father, based on the representation given by the petitioner dated 18.08.2020.

For Petitioner : Mr.A.Mohan

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the second respondent to grant ten days ordinary leave/parole to the petitioner's brother namely Tamilveeran (C.P.No.5448), son of Muthu, who is undergoing sentence as life convict in Central Prison, Madurai, from 27.08.2020 to 05.09.2020, for attending Eemakriyai rituals relating to the petitioner's father, based on the representation given by the petitioner dated 18.08.2020.

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

3.According to the petitioner, her brother viz., Tamilveeran is a Life Convict Prisoner. He was convicted in S.C.No.124 of 2011, dated 22.10.2014, by the trial Court concerned and as such, he had



already undergone more than 5 ½ years of imprisonment, as a Life Convict.

4.It is represented on behalf of the petitioner before this Court that the petitioner's father namely Muthu (Life Convict's father) passed away on 15.08.2020. Earlier, based on the request made by the petitioner, the prison authorities, had permitted her brother to participate in the last rites of their father on 16.08.2020. Now, the petitioner and her family members have decided to conduct 'Emagiriyai' to her father. Hence, the petitioner made a representation dated 18.08.2020, to the respondents requesting to grant leave to her brother viz., Tamilveeran, for ten days i.e., from 27.08.2020 to 05.09.2020 to enable him to participate and do the Emagiriyai to his deceased father.

5.Per contra, the learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner's brother Tamilveeran, son of Muthu, cannot claim Leave as a matter of right and the same may be granted as concession to the Prisoner / Life Convict. Further, already the petitioner's brother was permitted to participate in the last rites of his father on 16.08.2020 by the prison authorities.

6.It is the submission of the learned Additional Public Prosecutor appearing for the respondents that as per Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, Emergency Leave may be granted to a Prisoner for attending death or serious illness of father, mother, wife, husband, son, daughter, full brother or full sister or the wedding of son, daughter, full brother or full sister of the Prisoner. In the instant case on hand, the petitioner's brother is not entitled to be released on Parole for attending the Emagiriyai ceremony of his father, for the reason that, the Tamil Nadu Suspension of Sentence Rules, 1982, does not provide for the same.

7.Inasmuch as the petitioner's father passed away on 15.08.2020 and on earlier occasion, the prison authorities permitted the petitioner's brother to participate in the last rites of his father on 16.08.2020 and also by taking into consideration of an important fact that the petitioner's brother Tamilveeran is to attend the Emagiriyai ceremony of his father, at this stage, by taking into sympathetic and humanitarian consideration, orders the release of the petitioner's brother Tamilveeran, son of Muthu (Life Convict, now confined in Central Prison, Madurai), for the purpose of attending his father's Emagiriyai ceremony, which is scheduled to take place from 27.08.2020 to 05.09.2020 and in this regard, the petitioner's brother viz., Tamilveeran, son of Muthu, is granted Ordinary Leave / Parole from 28.08.2020 to 30.08.2020 till 5.00 p.m., and thereafter, the second Respondent / Superintendent of Central Prison, Madurai, is hereby directed to ensure that the said Prisoner / Life Convict, is brought back to the Central Prison at



Madurai, with necessary / adequate Police Escorts and lodge there forthwith.

8.In the meanwhile, during the above said three days period i.e., on 28.08.2020 and 30.08.2020, the petitioner's brother Tamilveeran, son of Muthu (Life Convict, now confined in Central Prison, Madurai), is directed to report before the Inspector of Police, Sempatti Police Station, Dindigul District, daily at 10.00 a.m., without any fail at any costs.

9.The learned Additional Public Prosecutor is directed to communicate the copy of this order to the second respondent / Superintendent of Prison, Central Prison, Madurai, immediately, for strict compliance of this order. The second respondent / Superintendent of Prison, Central Prison, Madurai, is also directed to submit a report to the Registry, as to the compliance of the direction issued by this Court.

10.With the aforesaid direction, the Writ Petition stands disposed of. No costs. It is made clear that the guidelines issued by the Government in tackling the COVID - 19 Pandemic, viz., wearing of masks, social distancing, etc., shall be followed by all concerned.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

Note :- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Additional Director General of Police(Prisons),
Gandhi Irwin Road,
Egmore, Chennai.

2.The Superintendent of Central Prison,
Central Prison,
Madurai.



3.The Inspector of Police,
Sempatti Police Station,
Dindigul District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

W.P (MD) No.10145 of 2020
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