



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P. (MD)No.10154 of 2020

S.Ganesh

... Petitioner

Vs.

1.The Principal Secretary,
Home Department, (Prison, The State of Tamil Nadu, Secretary to
Government)
Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Additional Director General of Police (Prisons) - cum -
The Inspector General of Prisons,
Office to ADGP (Prisons) / IG of Prisons,
Thalamuthu Natarajar Maalligai,
Egmore, Chennai.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the third respondent to give emergency leave for 10 days to my elder brother namely, Murugan, S/o. Late Subramanian, now confined at Palayamkottai Central Prison, Tirunelveli District, for attending the funeral ceremonies of my late father Subramanian, S/o. Andi, without escort by considering the representation dated 24.08.2020.

For Petitioner : Mr.P.Krishnasamy
for Mr.D.Rajaboopathy

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 third respondent to give emergency leave for 10 days to my elder brother namely, Murugan, S/o. Late Subramanian, now confined at Palayamkottai Central Prison, Tirunelveli District, for attending the funeral ceremonies of his late father Subramanian, S/o. Andi, without escort by considering his representation, dated 24.08.2020.



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

3.According to the petitioner, his brother namely, Murugan, is a Life Convict Prisoner. He was convicted in S.C.No.185 of 2015, dated 29.01.2016, by the trial Court concerned and as such, he had already undergone more than 3 (three) 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, Subramanian (Life Convict's father) passed away on 23.08.2020. Now, the petitioner and his family members have decided to conduct 'funeral ceremonies' to his father. Hence, the petitioner made a representation dated 24.08.2020, to the respondents requesting to grant leave to his brother namely, Murugan, for ten days 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 Murugan, son of Subramanian, cannot claim Leave as a matter of right and the same may be granted as concession to the Prisoner / Life Convict.

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 23.08.2020 and by taking into consideration of an important fact that the petitioner's brother namely, Murugan, 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 namely, Murugan, son of Subramanian (Life Convict, now confined in Palayamkottai Central Prison, Tirunelveli District), for the purpose of attending his father's Emagiriyai ceremony and in this regard, the petitioner's brother namely, Murugan, son of Late.Subramanian, is granted Ordinary Leave / Parole from 28.08.2020 to 31.08.2020 till 5.00 p.m., and thereafter, the third Respondent / Superintendent of Prison, Palayamkottai Central Prison, is hereby directed to ensure that the said Prisoner / Life Convict is brought back to the Palayamkottai Central Prison at



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

8.In the meanwhile, during the above said (four) 4 days period i.e., on 28.08.2020 and 31.08.2020, the petitioner's brother namely, Murugan, son of Late Subramanian (Life Convict, now confined in Palayamkottai Central Prison, at Tirunelveli District), is directed to report before the Inspector of Police, Kalidaikuruchi Police Station, Tirunelveli 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 third respondent / Superintendent of Prison, Palayamkottai Central Prison, Tirunelveli District, immediately, for strict compliance of this order. The third respondent / Superintendent of Prison, Palayamkottai Central Prison, Tirunelveli, 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 (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Principal Secretary,
Home Department, (Prison, The State of Tamil Nadu, Secretary to
Government)
Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Additional Director General of Police (Prisons) - cum -
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Thalamuthu Natarajar Maalligai,
Egmore, Chennai.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The Inspector of Police,
Kalidaikurichi Police Station,
Tirunelveli District.

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

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

+1 CC to M/s.D. RAJABOOPATHY, Advocate (SR-15004[F] dated
26/08/2020)

W.P (MD) No.10154 of 2020
26.08.2020

AP(26/08/2020) 4P 8C