



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.10.2020

CORAM:

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.P (MD) NO.14127 OF 2020

Eskalin Antony Pillai.

: Petitioner

.vs.

1.The Additional Chief Secretary,
Home(Prison) Department,
Secretariat,
St.George Fort,
Chennai - 600 009.

2.The Director General of Prisons and Correctional Services,
Tamil Nadu Prisons and Correctional Services Department,
No.6, Whannels Road, Egmore,
Chennai - 600 008.

3.The Deputy Inspector General of Prisons,
Office of the DIG of Prisons Madurai Range,
Madurai - 625 016.

4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli- 627 002.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent in order, dated 21.09.2020 and quash the same and to direct the respondents herein to pass orders on the representation sent to the respondents herein on 30.09.2020 seeking to grant ordinary leave of one month to Mr.Dhasan, son of Sepastian, who is lodged in Central Prison for Men, Palayamkottai with C.T.No.3975 under Rule No.40 of the Tamil Nadu Suspension of Sentence Rules, 1982.

For Petitioner : Mr.Henri Tephagne
for M/s.K.Raja



For Respondents : Mr.R.Anandharaj
Addl.Public Prosecutor

O R D E R

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[Order of the Court was made by **K.KALYANASUNDARAM., J.**]

The prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent in order, dated 21.09.2020 and quash the same and to direct the respondents herein to pass orders on the representation sent to the respondents herein on 30.09.2020.

2.The Petitioner is the wife of S.Dhasan, who was convicted for the offence under Sections 8(C) r/w 29, 8(C) r/w 21(C), 8(c) r/w 27(A) and 8(C) r/w 28 of NDPS Act by the Principal Special Court for EC and NDPS Act Cases, Madurai in C.C.No.240 of 2009 on 5.3.2014.The conviction and sentence imposed by the trial Court was confirmed by this Court in Crl.A(MD)Nos.118 to 122 of 2014, by order, dated 31.7.2015.

3.The grievance of the Petitioner is that the leave sought for, for performing the marriage of his daughter was not considered in accordance with Rule 40 of Tamil Nadu Suspension of Sentence Rules, 1982. It is the submission of the learned counsel for the Petitioner that the impugned order came to be passed by the fourth respondent taking note of Rule 22(3) and Rule 40 of the above said Rules was not taken into consideration and hence a representation, dated 30.09.2020 was made by the Petitioner. It is further submitted that it would suffice, if a suitable direction is issued to the first respondent to consider the Petitioner's representation, dated 30.09.2020.

4.Mr.R.Anandharaj, learned Additional Public Prosecutor appearing on behalf of the respondents, on instructions, would state that though the Petitioner sought for leave for thirty days to perform the marriage of his daughter, the fourth respondent considering the report submitted by the Probation Officer, granted leave for three days.The convict is not entitled for thirty days leave in view of Rule 22(3) of the above-said Rules, since he had already availed leave in the month of January 2020. It is further submitted that the first respondent is ready to consider the representation of the Petitioner, dated 30.09.2020.

5.In the light of the above submissions made by the learned counsels appearing on either side, this Court, without going into the merits of matter, directs the first respondent to consider the representation of the Petitioner, dated 30.09.2020 on merits and in



accordance with law, as early as possible, preferably on or before 22.10.2020.

6. Accordingly, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

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Sub Assistant Registrar (CS)

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

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ORDER MADE IN
W.P (MD) NO.14127 OF 2020
14.10.2020

vsn

SDS (14.10.2020) 3P-5C

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