



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.P. (MD)No.17985 of 2020

K.Bala

: Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai.

2.The Additional Director General of Prison,
Gandhi-Irvin Road,
Egmore,
Chennai.

3.The Superintendent,
Central Prison,
Palayamkottai.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents to grant ordinary leave for 30 days or an emergency leave for 6 days pursuant to Rule 6 and Rule 34 of The Tamil Nadu Suspension of Sentence Rules, 1982 to Kombar @ Kombariah on the basis of the representation dated 19.11.2020.

For Petitioner : Mr.E.Somasundaram

For Respondents : Mr.R.Anandharaj

Addl. Public Prosecutor

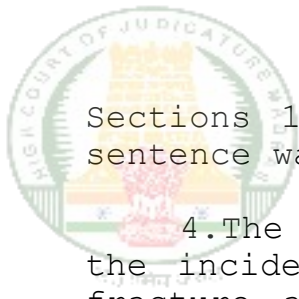
ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J)

Heard Mr.E.Somasundaram, learned counsel for the petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on records.

2.This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to grant ordinary leave for 30 days or an emergency leave for 6 days pursuant to Rule 6 and Rule 34 of The Tamil Nadu Suspension of Sentence Rules, 1982 to Kombar @ Kombariah on the basis of the representation, dated 19.11.2020.

3.It is the case of the petitioner that her husband Kombar @ Kombariah was convicted by the Additional District and Sessions Judge, Tirunelveli in S.C.No.376/1998 for the offences under



Sections 120B, 341, 302 r/w 34 IPC and 302 r/w 109 IPC and life sentence was confirmed by this Court in Crl.A(MD)No.255 of 2008.

4.The learned counsel for the petitioner would state that in the incident that occurred on 24.07.2020, the petitioner suffered fracture and injuries, for which, she was admitted at Thiraviyam Ortho Hospital, Nagercoil, where she underwent surgery. In support of the above argument, the learned counsel has drawn the attention of this Court to the discharge summary issued by the said hospital.

5.Per contra, the learned Additional Public Prosecutor by referring the counter affidavit filed by the third respondent would argue that the petitioner's husband is not entitled for ordinary leave under Rule 22, since the convict has not completed three years of imprisonment and for considering the emergency leave under Rule 6, the medical records shows that the health of the petitioner has been improved. Moreover, the petitioner is having two sons and further, the petitioner has not enclosed original medical records along with the petition.

6.From the perusal of the records, it is seen that in the representation dated 19.11.2020, no specific rule has been quoted under which, the petitioner seeks leave. The date of incident and the treatment particulars have also not been mentioned in the representation. Further, in the counter, it has been stated that the original medical records has not been enclosed along with the petition for seeking parole.

7.In the light of the above facts, this writ petition is disposed of permitting the petitioner to give a fresh representation to the third respondent by enclosing a copy of this order along with original medical records. On receipt of such representation, the third respondent shall consider the same and pass orders on merits and in accordance law, within a period of two weeks therefrom.

Sd/-

Assistant Registrar (RTI)

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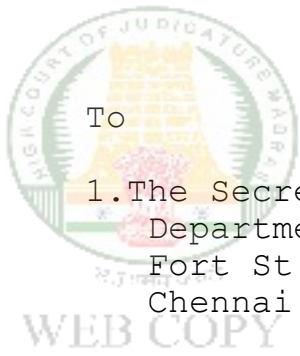
/ /2020

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 Secretary to Government of Tamil Nadu,
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SGS (CO)
KB(30.12.2020) 3P 4C