



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2020

CORAM:

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

W.P. (MD) No.19557 of 2020

S.Ganesan

... Petitioner

-vs-

1.The State represented by its
The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009

2.The Additional Direction General of Police
Inspector General of Prison
Egmore, Chennai-08

3.The Deputy Inspector General of Prisons
Madurai Range, Madurai-5

4.The Superintendent of Prisons
Madurai Central Prison
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the first respondent to grant extension of ordinary leave to the period of one month to the petitioner [LCT No.3382 in 4th respondent's prison] by considering his representation dated 16.12.2020 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.Jeyakarthik M.S.

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

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

Heard Mr.Jeyakarthik M.S., learned counsel appearing for the petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor who takes notice for the respondents and perused the



materials available on record.

2. This writ petition has been filed for issuance of a writ of mandamus directing the first respondent to grant extension of ordinary leave to the petitioner for a period of one month by considering his representation, dated 16.12.2020.

3. The petitioner would state that he was one of the accused in Crime No.270 of 1993, on the file of Avaniyapuram Police Station, for the commission of offence punishable under Section 302 I.P.C. On trial, he was convicted by the learned I Additional District Judge-cum-Chief Judicial Magistrate, Madurai, in S.C.No.294 of 1995, vide Judgment dated 01.07.1999. Questioning the propriety of the Judgment, he preferred an appeal before this Court in CrI.A.No.688 of 1999, but it was dismissed on 22.06.2007. The Special Leave Petition filed before the Supreme Court was also dismissed on 21.10.2013. The petitioner would further state that from the year 2011, he has been languishing in jail. He applied for grant of ordinary leave and the third respondent, vide proceedings dated 09.10.2020 granted him ordinary leave for thirty days from 26.11.2020 to 27.12.2020 and he has to surrender before the third respondent on or before 27.12.2020.

4. The grievance of the petitioner is that he sought leave to arrange marriage for his son Sivakumar. But due to ill-health, he was unable to arrange the marriage and hence, he made a representation on 16.12.2020 to the first respondent. However, it was not considered and hence, he has filed this writ petition.

5. The learned counsel for the petitioner would state that under Rule 22(i) of Tamil Nadu Suspension of Sentence Rules, 1982, the first respondent is having authority to consider the grievance of the petitioner and hence, it would suffice if a direction is issued to the first respondent to consider the petitioner's representation within a stipulated time.

6. The learned Additional Public Prosecutor appearing for the State would state that the petitioner has not provided sufficient time to consider his representation and he has approached this Court at the eleventh hour and if sufficient time is given, the first respondent is ready to consider the petitioner's representation on merits and in accordance with law.

7. In the light of the above submissions of the learned counsel on either side, this Court, without going into the merits of the matter, directs the first respondent to consider the petitioner's representation, dated 16.12.2020 and pass orders on merits and in accordance with law, as expeditiously as possible preferably on or before 07.01.2021.



8. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AS)

// 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 Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Additional Direction General of Police,
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ARK (CO)

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