



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.01.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**
AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

H.C.P. (MD)No.1338 of 2019

P.Rajeswari

... Petitioner/Mother of the detenue

Vs.

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

2.The Additional Director General of Prison,
Egmore, Chennai - 600 008.

3.The Deputy Inspector General of Prison,
Department of Prison,
Madurai Range,
Madurai - 16.

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned order passed by the fourth respondent in No.7558/ThaKu/2/2019, dated 13.11.2019, quash the same as illegal and consequently, direct the respondents to grant one month ordinary leave to the petitioner's son namely, Ravi @ Ravichandran (C.P.No.4967), who is undergone for more than 28 years of imprisonment to enable him to settling the family after release as per Rule 20(i) and (iii) of the Tamil Nadu Suspension of Sentence Rules, 1982, within the time to be stipulated by this Court.



For Petitioner

: Mr.T.Lajapathi Roy
for Mr.T.Thirumurugan

For Respondents

: Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mr.K.Dinesh Babu
Additional Public Prosecutor

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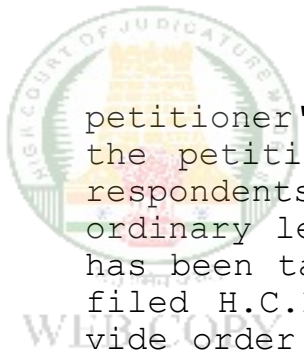
ORDER

[Order of the Court was made by **T.RAJA, J.**]

P.Rajeswari, mother of one Ravi @ Ravichandran, Convict Prisoner No.4967, who is undergoing imprisonment for more than 28 years, has come to this Court seeking to quash the order passed by the fourth respondent in No.7558/ThaKu/2/2019, dated 13.11.2019 and a consequential direction to the respondents to grant one month ordinary leave to her son, to visit her family as per Rule 20(i) and (iii) of the Tamil Nadu Suspension of Sentence Rules, 1982 [hereinafter referred to as 'the Rules'].

2.Learned counsel appearing for the petitioner in support of the prayer pleaded that the petitioner's son was imposed with the punishment of life imprisonment in the assassination case of former Prime Minister Mr.Rajiv Gandhi. From the date of arrest viz., 05.01.1992, he has been undergoing incarceration. After trial, on 28.01.1998, all the 26 persons, including the petitioner's son were sentenced to death by the Special Court, Poonthamallee, for the TADA Case in S.C.No.1 of 1993. Thereafter, he has preferred an appeal before the Hon'ble Apex Court in Death Reference Case No.1 of 1998. The Hon'ble Apex Court interfering with the death sentence, set free 19 persons and commuted the death sentence of three persons including the petitioner's son, to life sentence.

3.Adding further, the learned counsel appearing for the petitioner submitted that earlier, on four occasions, by virtue of the orders passed by this Court dated 10.09.2001, 08.02.2002, 20.11.2012 and 01.03.2018, the petitioner's son was granted 41 days emergency leave and also by virtue of the letter dated 15.05.2003 of the Superintendent of Prison, Central Prison, Vellore, the petitioner's son was granted 3 days emergency leave to attend the last rituals of his father. In all the abovesaid five occasions, the petitioner's son has surrendered before the fourth respondent without causing any inconvenience to others. Further, the Hon'ble Apex Court vide order dated 06.09.2018, has stated that the State Government has power to release all the seven life convict prisoners in Mr.Rajiv Gandhi's assassination case including the

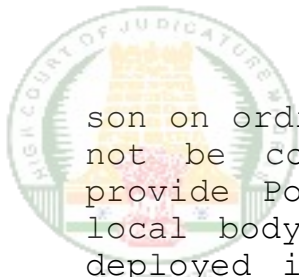


petitioner's son and thereafter, no action has been taken. Hence, the petitioner has sent a representation dated 01.10.2018 to the respondents seeking to release her son on long parole or long ordinary leave till a decision taken by the Governor, but no action has been taken. Due to inaction of the respondents, the petitioner filed H.C.P.(MD)No.1493 of 2018 before this Court and this Court, vide order dated 18.12.2018, based on the submission of the learned Additional Advocate General that if any application is preferred for mentioning a specific period for less than a month on any of the grounds for ordinary leave as per Rule 20 of the Rules, the same would be considered, granted liberty to the petitioner to make fresh representation before the concerned authority. After obtaining the said order, the petitioner has sent a detailed representation to the respondents on 27.03.2019 and sought for ordinary leave not less than one month as per Rule 20(i) and (iii) of the Rules, but the same was not considered. Hence, the petitioner filed H.C.P.(MD) No.830 of 2019. This Court, vide order dated 15.10.2019, directed the respondents to consider the representation made by the petitioner dated 27.03.2018, within a period of three weeks. Subsequently, on 13.11.2019 the fourth respondent has passed the present impugned order and rejected the claim of the petitioner based on the report of the Superintendent of Police, Virudhunagar, dated 02.11.2019, on the ground that there is a possibility of life threat and there will be a police selection process scheduled from November 2019 to May 2020 and local body election is also yet to commence.

4.Adding further, the learned counsel appearing for the petitioner submitted that even in the counter affidavit filed by the respondents a stand was taken that only due to intervening local body elections, there is no possibility to provide sufficient Police Personnel to the petitioner's son in the event of his release on ordinary leave. Now, the local body elections have come to an end, therefore, the only ground taken to postpone the request of the petitioner to release her son on ordinary leave also disappeared, hence, this petition deserves to be allowed, he pleaded.

5.Mr.K.Chellanpandian, learned Additional Advocate General appearing for the respondents submitted that the petitioner's son was already granted 44 days of emergency leave on five occasions with police escort including to attend the last rituals of his father i.e., from 15.05.2003 to 19.05.2003. Thereafter, the petitioner's application was rejected on the ground that the respondents were not in a position to provide necessary police escort to the petitioner's son due to ensuing local body elections. However, due to intervening Pongal Holidays, the petitioner's request would be considered after the Pongal festival is over.

6.But, we are unable to sustain his contention. When the respondents have raised an objection earlier by way of filing
<https://hccservices.mca.gov.in/hccservices/> that the request of the petitioner to release her



son on ordinary leave as per Rule 20(i) and (iii) of the Rules could not be considered, because the situation was not conducive to provide Police Escort to the petitioner's son due to forthcoming local body elections, for which, the Police Personnels are to be deployed in every nook and corner of the State of Tamil Nadu to conduct free and fair local body elections, we have also postponed the hearing date of this Habeas Corpus Petition. The contention of the learned Additional Advocate General that only after Pongal Holidays, the request of the petitioner will considered, cannot be accepted for the reason that, firstly, the local body elections were over. Secondly, the petitioner's son was granted emergency leave on the following earlier five occasions:-

Sl. No.	Date of Release from leave	Date of Return from Leave	No. of days of leave granted
1	12.09.2001	18.09.2001	5
2	05.08.2002	12.08.2002	6
3	15.05.2003	19.05.2003	3
4	26.11.2012	10.12.2012	15
5	05.03.2018	20.03.2018	15

and returned to Prison without giving any complaint whatsoever. Therefore, we deem it fit to grant 15 days ordinary leave instead of 30 days sought for by the petitioner with the following conditions:-

(i)The Superintendent of Central Prison, Madurai, is directed to release the petitioner's son by name Ravi @ Ravichandran from 10.01.2020 to 25.01.2020 on ordinary leave after following the usual procedure and other safeguarding measures in accordance with the Prison Manual. The petitioner shall be taken back to the Central Prison, Madurai, on 25.01.2020 before 05.00 p.m.

(ii)The Superintendent of Central Prison, Madurai, shall provide escort with civil dress to the petitioner's son from the Central Prison, Madurai, from the time he leaves the Central Prison, Madurai and till such time, he is taken back to the Central Prison, Madurai, on the said date and time as ordered by this Court.

(iii)The Government shall bear the expenditure for providing escort to the petitioner's son.

(iv)The petitioner's son shall be of good behaviour and shall not commit any offence during his leave. The petitioner's son is liable to be recalled immediately, in case, he violates any of the conditions.

7. With the above directions, this Habeas Corpus Petition is disposed of.



Registry is directed to list the matter on 28.01.2020, for reporting compliance.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

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

2.The Additional Director General of Prison,
Egmore, Chennai - 600 008.

3.The Deputy Inspector General of Prison,
Department of Prison,
Madurai Range,
Madurai - 16.

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

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

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-412[F] dated 06/01/2020)

H.C.P. (MD)No.1338 of 2019
06.01.2020

JMN(07.01.2020) 5P : 7C