



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Tuesday, the Tenth day of December Two Thousand and Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice T.RAJA
AND
The Hon`ble Mr Justice B.PUGALENDHI

HCP(MD) . No.1293 of 2019
and
HCP(MD) . No.1294 of 2019

1. S. Syed Ali Fathima
W/o Shak Sindhamadhar, ... Petitioner in HCP(MD). No.1293 of 2019
2. Syed Ali Fathima,
W/o. Syed Ali, ... Petitioner in HCP(MD). No.1294 of 2019

Vs

- 1 State Rep by
The Secretary to Government
Of Tamilnadu Department of Home Fort St.
George Chennai 600 009
- 2 The Additional Director Gene
Ral of Prison Egmore Chennai-8
- 3 The Superintendent
Central Prison Palayamkottai
Thirunelveli District ... Respondents in both HCPs

Prayer in HCP(MD) . No.1293 of 2019:-

This Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents to grant leave for 30 days without escort to the detinue, Shak Sindhamadhaar S/o Pulavarmaideen, aged about 40 years, Convict No.7370, detained at Central Prison, Palayamkottai.

Prayer in HCP(MD) . No.1294 of 2019:-

This Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus directing the respondents to grant leave for 30 days without escort to the detinue, Syed Ali, S/o. Kaja Maideen, aged about 45 years, Convict No.7370, detained at Central Prison, Palayamkottai.



ORDER:- These Habeas Corpus Petitions coming upon for orders on this day and upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr. R. Narayanan, Advocate for the Petitioners in both petitions and of Mr. K. Dinesh Babu, Government Advocate for the respondents in both petitions, this Court made the following order:

Learned counsel for the petitioner inviting our notice to Rules 13 and 22 of the Suspension of Sentence Rules, 1982, prays for time.

2. The Rules 13 and 22 of the said Rules are extracted hereunder for easy reference:

"13.Maximum period of emergency leave.- The total period of emergency leave to be granted to a prisoner by the Superintendents of Prisons or the Inspector General of Prisons, as the case may be, shall be fifteen days in a year to be spread over four spells, subject to the maximum of six days in any one spell according to the need of the prisoner on the occasion and the remaining nine days in three spells each spell not exceeding three days at a time and the decision of the Superintendent or the Inspector General of Prisons in deciding the duration of the spell shall be final. However, in exceptional cases, the Government may extend the period of emergency leave following the procedure prescribed in rule 34. Application for emergency leave for the fifth time in a year shall be submitted to Government for prior orders:]

[Provided that in case of female pregnant prisoners, for having the delivery outside the prison, emergency leave for a period of fifteen days may be granted as a special case without taking into account of the total spell of emergency leave availed earlier.]"

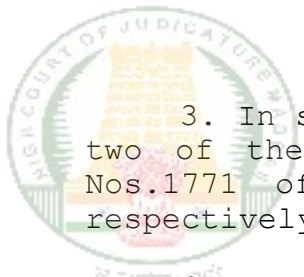
22.Eligibility for ordinary leave:-

"(1) No prisoner shall be granted ordinary leave unless he has been sentenced by a Court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed three years of imprisonment from the date of initial imprisonment.

(2) The period of ordinary leave shall not exceed one month at a time unless it is extended by Government.

(3) The prisoner shall be granted the second spell of leave not exceeding one month after the completion of two years of imprisonment from the date on which he returns from the last ordinary leave.

(4) In cases of prisoners who have got a balance of three years to serve ordinary leave not exceeding one month for each of three years, the year being calculated from the date of his return to prison from last leave, shall be granted so as to enable them to make arrangements for settling the family life after release."



3. In support of the prayer, the learned counsel has also referred to two of the orders that have been passed by this Court in HCP (MD) Nos.1771 of 2019 and 2243 of 2019 dated 05.09.2019 and 24.10.2019 respectively.

4. In view of the above, we grant a week's time to the respondent to take instructions and report before this Court the stand of the respondents on the representation of the petitioner.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

TO

1. The Secretary to Government
Of Tamilnadu Department of Home Fort St.
George Chennai 600 009
2. The Additional Director Gene
Ral of Prison Egmore Chennai-8
3. The Superintendent
Central Prison Palayamkottai Thirunelveli
Dt
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 10/12/2019
HEARING DATE : 17/12/2019
ORDER

HCP(MD).No.1293 and 1294 of 2019

Giving direction and etc.
as stated within.

KK/SAR/11.12.2019/3P-5C/