

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.2193 of 2021

M.Kasiammal

...Petitioner

.Vs.

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

2.The Director General of Prisons,
Chennai Metropolitan Development
Authority Tower II,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.

3.The Superintendent,
Vellore Central Prison,
Thorapadi,
Vellore 632 002.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned rejection order in No.3095/Tha.Ku.3/2020 dated 23.10.2020 passed by the 3rd respondent herein and quash the same and also direct the respondents herein to grant 30 days ordinary leave to petitioner's son namely Chinnapayyan lodge in the Vellore Central Prison based upon her representation dated 31.08.2020.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed challenging the Impugned Rejection Order passed by the 3rd respondent dated 23.10.2020 and for a consequential direction to the respondents

to grant leave to the son of the petitioner, who is undergoing sentence in the Vellore Central Prison.

2.The son of the petitioner was convicted and sentenced for offence under Sections 120(b), 449, 394, 395 and 396 of IPC. It is stated that the petitioner's son has already undergone imprisonment for more than 10 years.

3.The petitioner is the mother of the convict and she made a representation to the respondents, seeking for leave on the ground that she has become very old and she is suffering from serious ailments and even the convict is suffering from mental depression. The representation made by the petitioner was rejected by the 3rd respondent by a letter dt.23.10.2020, on the ground that the convict is not entitled to be let out on ordinary leave due to the bar under Rule 24 (b) of the Tamil Nadu Suspension of Sentence Rules, 1982.

4.When the matter came up for hearing on 04.02.2021, this Court passed the following order:

"The learned Additional Public Prosecutor takes notice for the respondents. The petitioner is the mother of the convict and she had sought for ordinary leave under the Tamil Nadu Suspension of Rules 1982. The 3rd respondent has rejected the request through the impugned letter dated 23.10.2020, on the ground that the petitioner's son is undergoing life sentence for an offence under Section 396 of IPC and there is a bar under Rule 21(b) of the rules to grant ordinary leave to such convicts.

2.The learned counsel for the petitioner submitted that there are totally six accused persons in the concerned case and the leave is granted to some of the accused persons and only when it came to the son of the petitioner, a technical plea is taken on the side of the respondent Police.

3.The learned Additional Public Prosecutor shall take instructions and report before this Court. Post this case under the caption 'for orders' on 11.02.2021".

5.When the matter was taken up for hearing today, the learned Additional Public Prosecutor on instructions submitted that the other accused persons have been granted emergency leave during various occasions.

6.Taking into consideration the facts and circumstances of the case and also considering the age of the petitioner, there shall be a direction to the 3rd respondent to grant emergency leave to the son of the petitioner in accordance with rule 13 of the Tamil Nadu Suspension of Sentence Rules, 1982. The petitioner shall make a fresh representation to the 3rd respondent along with a copy of this order and the 3rd respondent shall pass appropriate orders in line with the directions issued by this Court.

This Writ Petition is accordingly allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KP
To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Home (Prison IV) Department,
Fort St.George, Chennai 600 009
- 2.The Director General of Prisons,
Chennai Metropolitan Development
Authority Tower II,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
- 3.The Superintendent,
Vellore Central Prison,
Thorapadi, Vellore 632 002.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Kumara Devan, Advocate Sr.7772

W.P.No.2193 of 2021

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srg 09/03/2021