

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.3828 of 2021

Mohamed Ibrahim @ Raja

...Petitioner

.Vs.

1.The State rep.by its,  
Home Secretary (Prison),  
Home Department, Secretariat,  
Fort St. George,  
Chennai 600 009.

2.The Director General of Prison,  
Gandhi Irwin Road,  
CMDA Building,  
Egmore,  
Chennai- 08.

3.The Deputy Inspector General of Prisons  
(Coimbatore Range),  
Office of the D.I.G (Range),  
Gandhipuram,  
Coimbatore.

4.The Superintendent of Prison,  
Central Prison at Salem,  
Hashtampatty,  
Salem 636 007.

..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 in impugned order in No.39/ த.கு .3/2021 dated on 08.01.2021 passed by the 4th respondent and quash the same and directing the 4th respondent to grant 30 days leave without escort to the convict namely Mohamed Ibrahim @ Raja, S/o.Haja Mohidheen (C.T.No.8482) confined at Central Prison, Salem.

For Petitioner : Mr.M.Mohamed Saifulla

For Respondents : Mr.A.Damodaran  
Government Advocate  
(Criminal Side)

**ORDER**

This Writ Petition has been filed challenging the Impugned Rejection Order passed by the 4th respondent dated 08.01.2021 and for a direction to the 4th respondent to grant 30 days leave to the convict viz., Mohamed Ibrahim @ Raja, S/o.Haja Mohidheen (C.T.No.8482) confined at Central Prison, Salem.

2.The petitioner was convicted and sentenced to undergo 15 years of imprisonment and to pay fine of

Rs.1,50,000/- for offence under Sections 8(c) r/w 29, 8(c) r/w 21(c), 8(c) r/w 22(c), 8(c) r/w 28 and 8(c) r/w 27 (A) of Narcotic Drugs and Psychotropic Substances Act, 1985. On 24.10.2017, conviction has been passed by the learned Principal District Judge of Special Court (EC & NDPS) Chennai in C.C.No.05 of 2016. He has been confined in Central Prison-I, Puzhal and thereafter on 15.09.2018, he has been transferred from Central Prison I, Puzhal to Central Prison Salem. Now, the petitioner is confined in Salem Central Prison.

3.The petitioner submits that he has been arrested in NDPS case and he was in confinement from 19.07.2014 to 24.10.2017 and the trial Court had set off this period under Section 428 of Cr.P.C. The petitioner is in prison for more than 06 years. His mother viz., Mrs.Thajunnisha aged about 57 years residing at No.1/11E, Main Road, Velanudi, Thiruvavur. The petitioner's mother is suffering from liver disease and affected to Jaundice and is taking treatment. The petitioner's mother health condition is danger getting deteriorated very badly and the

petitioner apprehends about his mother's health condition. The petitioner's father had passed away, the only solace to his mother is the petitioner. He further submits that his mother has sent a representation to the respondents on 15.12.2020. The respondents stating that the petitioner is involved in NDPS case and the petitioner is not entitled for any leave as per the Tamil Nadu Suspension of Sentence Rules, 1982.

4.The learned Counsel for the petitioner relying upon the Judgement of the Hon'ble Supreme Court of India in "**Dadu Alias Tulsidas .vs. State of Maharashtra**" reported in **(2000) 8 SCC 437**. Therefore, he submitted that the petitioner is entitled to ask leave and sought for allowing this petition.

5.The learned Government Advocate (Crl.Side) submits that as per Section 32 A of the NDPS Act, the petitioner is not entitled for any Suspension of Sentence and leave. However, the petitioner under suspension of sentence as per Rule No.6, emergency leave may be granted for attending death or serious

illness of father, mother, wife, and others in the family members and the petitioner is not applied for the emergency leave for above reasons. Hence, the present authorities considering the same had rejected the ordinary leave application of the petitioner.

6.Considering the submissions and perusal of the records it is not in dispute he is in prison for the past six years from 19.07.2014 to 24.10.2017. For the past six years he is inside the prison and the petitioner has not come out of Prison from 19.07.2014. The prison authorities have also verified and found that the petitioner's mother Mrs.Thajunnisha is suffering from health ailments.

7.As per Rule 22 of the Suspension of Sentence Rules, the petitioner is eligible for leave since he has completed more than three years of confinement as per Section 20 grant of ordinary leave. The petitioner is entitled leave since the petitioner has to take care of his mother's health and also arrange medical expenses to her which this court consider one of the extraordinary reason, entitling the petitioner for Ordinary Leave.

8.In view of the same, the convict viz., Mohamed Ibrahim @ Raja, S/o.Haja Mohidheen (C.T.No.8482) convict prisoner in Central Prison, Salem is granted 30 days leave from 08.07.2021 to 06.08.2021 with Escort (at the cost of the Government) and he has to return back to Central Prison, Salem on 06.08.2021 at 05.00 P.M. During the said period, the convict shall report before the concerned jurisdictional Police Station every Monday and Friday at 11.00 A.M.

9.This petition is disposed of with the above directions.

No costs.

10.Post the matter for reporting compliance on

**11.08.2021.**

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**05.07.2021**

Index : Yes/No

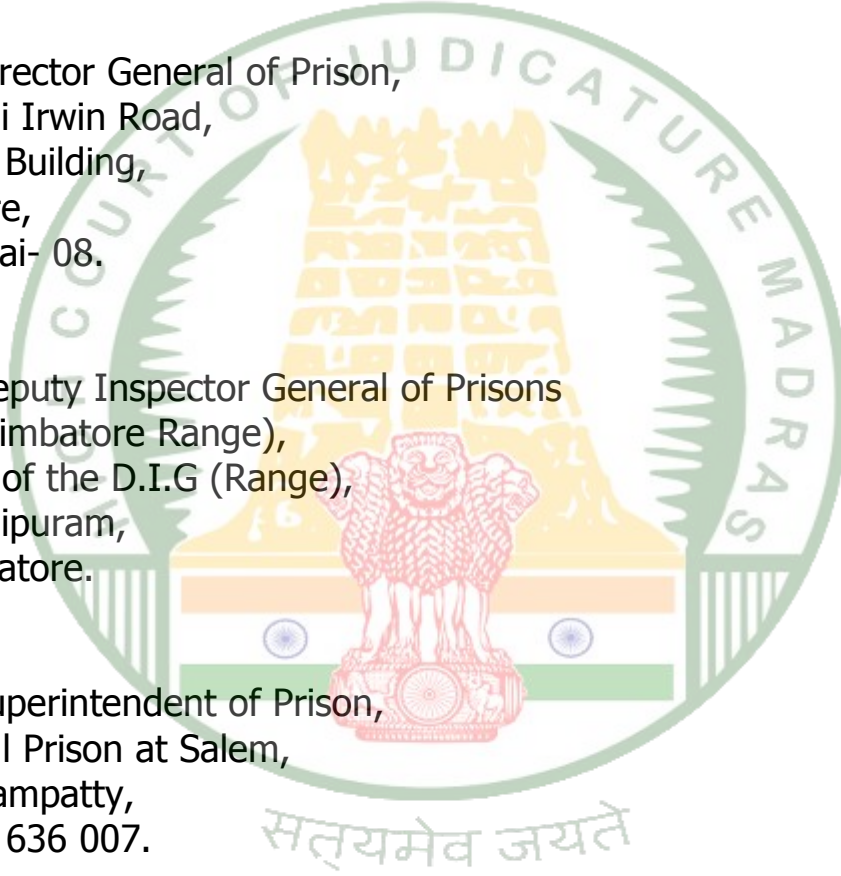
Internet : Yes

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Note: Issue order copy on 06.07.2021

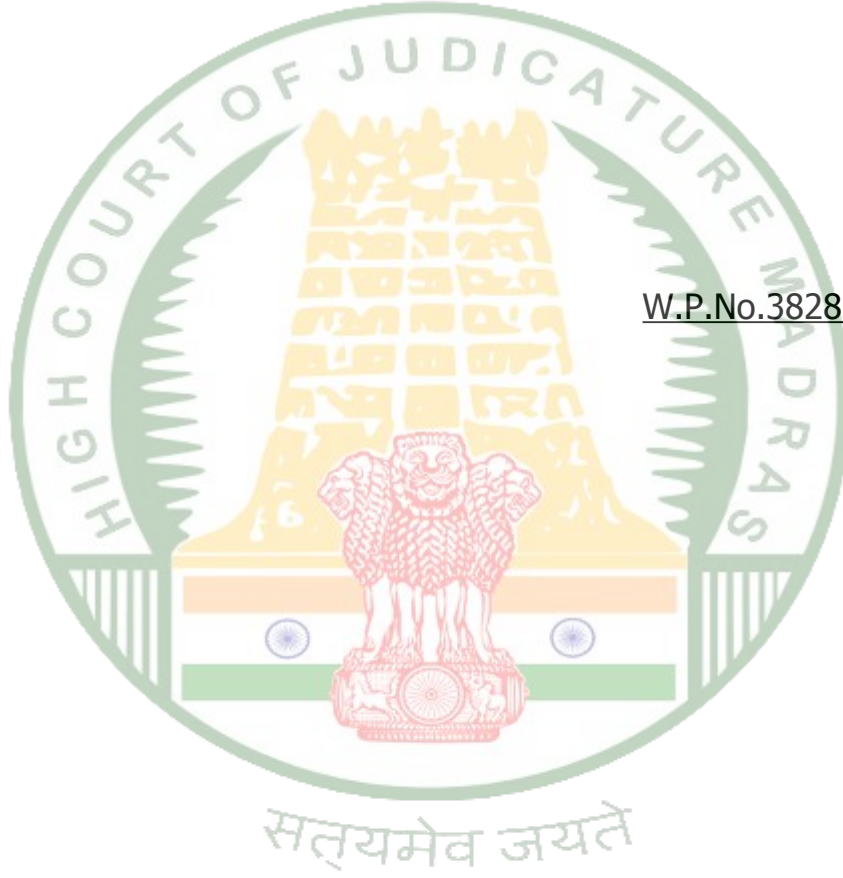
To

1. Home Secretary (Prison),  
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2. The Director General of Prison,  
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4. The Superintendent of Prison,  
Central Prison at Salem,  
Hashtampatty,  
Salem 636 007.
5. The Public Prosecutor,  
High Court, Madras.



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**M.NIRMAL KUMAR, J.**  
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