

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.02.2021
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
WP.No.3545 of 2021

M.Mohana

...Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2. The Superintendent
Central Prison,
Vellore,
Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus to direct the 2nd respondent herein to grant leave for the period of 30 days to petitioner's husband, convicted prisoner namely B.Manikandan son of Bakthavachalam aged about 26 years, convict No.3295 is now confined at Central Prison, Vellore for attending his deceased father's imachadangu Kariyam or Sapindakarana which is scheduled to be held on 16.02.2021 and for arrangement and settlement of petitioner and her three year old child's livelihood.

For Petitioner : Mr.J.Prakasam
For Respondents : Mr.C.Raghavan
Government Advocate

सत्यमेव जयते

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the second respondent to consider the representation made by the petitioner wherein the petitioner has sought for ordinary leave for her husband, who is a convict, to attend to the death ceremony of his father.

2. The husband of the petitioner was convicted for an offence under the POCSO Act and he was sentenced to rigorous imprisonment for 10 years by judgment dated 18.09.2018. The further case of the petitioner is that the father of the convict died on 25.01.2021 and the ceremony is going to be conducted on 16.02.2021 and the same has to be attended by the convict. The petitioner therefore made a representation to the respondent seeking for ordinary leave of 30 days for her

husband to conduct the ceremony and also for arranging for some finance for the family. Since the same was not considered, the present Writ Petition has been filed before this Court.

3. Heard Mr.J.Prakasam, learned counsel appearing for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. side) for the respondents.

4. The husband of the petitioner was convicted and sentenced for an offence under the POCSO Act, by judgment dated 18.09.2018. It is brought to the notice of this Court that a Criminal Appeal has been filed against this judgment and the same is pending. In the mean time, the father of the convict died on 25.01.2021. The convict was permitted to attend to the last rites of his father on 26.01.2021 and on the same day, he surrendered before the second respondent. The ceremony is going to be conducted tomorrow and the convict being the son will have to perform this ceremony.

5. The convict is not entitled for grant of ordinary leave, since he does not satisfy the requirements under Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982. The convict has not completed 3 years of imprisonment as on date.

6. Taking into consideration the facts and circumstances of the case, this Court deems it fit to direct the second respondent to grant emergency leave to the convict for a period of 10 days. The convict will be eligible for a maximum period of 15 days of emergency leave in a year. Considering the importance of the ceremony and also of the fact that the convict will have to make some financial arrangements for his family, this Court deems it fit to direct the second respondent to grant 10 days emergency leave to the convict.

7. In view of the above discussion, there shall be a direction to the second respondent to release the convict tomorrow morning, i.e. on 16.02.2021 morning, to enable the convict to perform the death ceremony for his father. The convict shall be granted 10 clear days emergency leave with escort. The second respondent shall also impose any reasonable conditions to the convict, while he is on emergency leave. The convict shall surrender before the second respondent on 27.02.2021.

8. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

jv

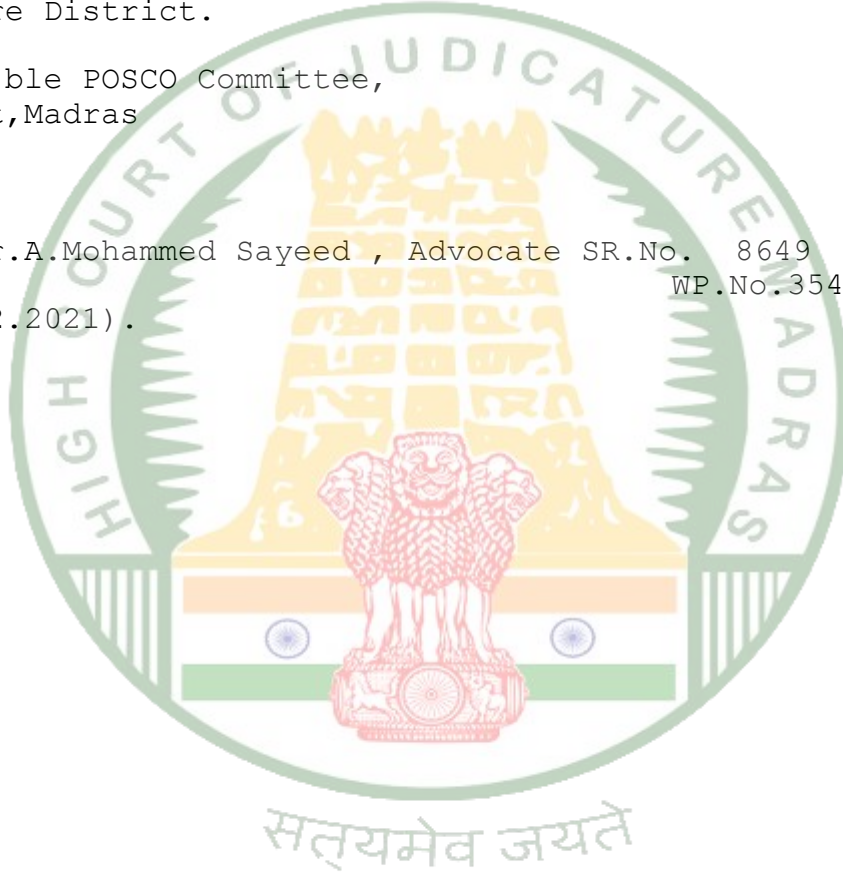
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2. The Superintendent
Central Prison,
Vellore,
Vellore District.

3. The Hon'ble POSCO Committee,
High Court, Madras

+1cc to Mr.A.Mohammed Sayeed , Advocate SR.No. 8649
WP.No.3545 of 2021
A.SK(15.02.2021).



WEB COPY