

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2021

C O R A M

The Hon'ble Mr. Justice N.ANAND VENKATESH

Writ Petition No.4247 of 2021

S.Rajan, S/o. Shanmugam

... Petitioner

Vs.

1. The State rep. By its  
Home Secretary (Prison),  
Fort St. George, Chennai-600 009.
  2. The Director General of Prison and  
Inspector General of Prison, Whannels Road,  
Egmore, Chennai-600 008.
  3. The Deputy Inspector General of Prisons,  
Office of the Coimbatore D.I.G. (Range),  
Gandhipuram, Coimbatore.
  4. The Superintendent of Prison,  
Coimbatore Central Prison,  
Coimbatore.
- .... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certioratified Mandamus calling for the records in impugned order in No.13292/T.K.3/2020 dated on 18.12.2020 passed by the 4<sup>th</sup> respondent and quash the same and directing the respondents to grant one month leave without escort to the petitioner S.Rajan S/o.Shamugam aged about 30 years now confined in Coimbatore Central Prison.

For Petitioner : Mr.M.Mohamed Saifulla

For Respondents : Mr.M.Mohammed Riyaz

Additional Public Prosecutor

O R D E R

This writ petition has been filed challenging the rejection order passed by the fourth respondent dated 18.12.2020, rejecting the permission sought for by the petitioner for grant of ordinary leave for 30 days.

2. The petitioner is a life convict. There are two other cases which are pending against the petitioner in Crime No.52 of 2007 and Crime No.60 of 2011 and the petitioner is in judicial custody insofar as these two cases are concerned. When the

petitioner sought for an ordinary leave before the fourth respondent, the same was rejected by the fourth respondent through the impugned order on the ground that the petitioner is not entitled for leave as per Rule 35 of the Tamilnadu Suspension of Sentence Rules 1982. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard Mr.M.Mohamed Saifulla, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondents.

4. It is an admitted fact that the petitioner is in judicial custody in two pending cases. Therefore, unless he is released on bail in those two cases, he cannot be granted either an ordinary leave or an emergency leave. The same is clear from the language of Rule 35 of the Tamilnadu Suspension of Sentence Rules 1982, which makes it very clear that no prisoner on whom the case is pending trial shall be granted leave. The term 'leave' has been defined under Rule 2(3) of the same rules as including both 'emergency' and 'ordinary' leave. By virtue of this mandate prescribed under Rule 35, the fourth respondent was perfectly right in rejecting the representation given by the petitioner and there are no grounds to interfere with the same.

5. It is left open to the petitioner to seek for bail in the other two pending cases and after obtaining bail, the petitioner can always approach the fourth respondent and seek for leave and such representation shall be considered by the fourth respondent in accordance with the rules.

6. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS.VII)

/True Copy/

Sub Assistant Registrar

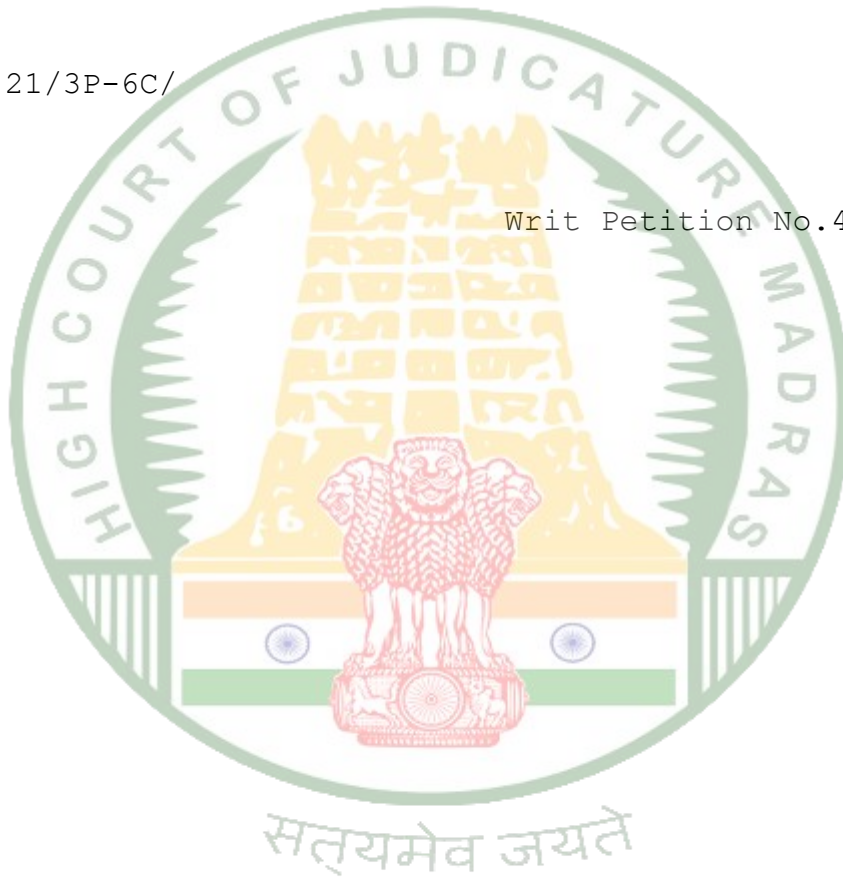
To

1. The Home Secretary (Prison),  
Fort St. George, Chennai-600 009.
2. The Director General of Prison and  
Inspector General of Prison, Whannels Road,  
Egmore, Chennai-600 008.

3. The Deputy Inspector General of Prisons,  
Office of the Coimbatore D.I.G. (Range),  
Gandhipuram, Coimbatore.
4. The Superintendent of Prison,  
Coimbatore Central Prison,  
Coimbatore.
5. The Public Prosecutor,  
High Court, Madras.

AKM/16.03.21/3P-6C/

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