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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON:	02.08.2021
DELIVERED ON:	19.08.2021

THE HON'BLE MR. JUSTICE P.N. PRAKASH

and

THE HON'BLE MS. JUSTICE R.N. MANJULA

W.P.No.6500 of 2021 & W.M.P.No.7076 of 2021

S.Soniya

...Petitioner

vs.

1. The Deputy Inspector General of Prisons
Vellore
Vellore District

2. The Superintendent of Prisons
Vellore Prison
Vellore District

...Respondents

Writ Petition preferred under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, to call for the records made in impugned order No.Va/Thaku.3/2020 dated 11.02.2021 on the file of the Superintendent of Prisons, Vellore, the second respondent herein, and quash the same as illegal and direct the respondents to grant 25 days leave to the detenu Selvamani, son of Selvaraj, aged about 40 years, Ct.No.1176 on humane consideration, now confined in the Central Prison, Vellore.

For petitioner : Mr. R. Sankarasubbu

For respondents : Mr. R. Muniyapparaj
Government Advocate (Crl. Side)

ORDER

P.N. PRAKASH, J.

It is the case of the petitioner that her husband Selvamani (Ct.No.1176) is a convict prisoner and is serving sentence in the Central Prison, Vellore. While so, the petitioner addressed a representation dated 04.02.2021 to the prison authorities seeking grant of leave for a period of 25 days under the Tamil



Nadu Suspension of Sentence Rules, 1982, on the ground that she has to undergo a surgery for removal of uterus, for which, her husband's presence by her side is essential. Since the petitioner's representation dated 04.02.2021 was turned down by the impugned order dated 11.02.2021, challenging the same, this writ petition has been preferred.

2 Heard Mr. R. Sankarasubbu, learned counsel for the petitioner and Mr. R. Muniyapparaj, learned Government Advocate (Crl. Side) appearing for the respondents.

3 The Superintendent of Central Prison, Vellore, has filed a counter affidavit dated 23.07.2021, wherein, at paragraph 4, it has been stated inter alia that the petitioner's husband Selvamani has completed only 2 years, 8 months and 13 days as on 30.06.2021. The portion of the counter affidavit arriving at the completed period of incarceration is extracted below:

"4. It is submitted that the petitioner's husband has completed the sentence as on 30.06.2021 as follows:

Particulars	Day	Month	Year
Date taken for calculation	30	06	2021
(Less) Date of sentence	26	06	2012
	04	00	09
Remand			
(Add) Set off (83 days)	23	02	00
	27	02	09
(Less) Bail at large (2,384 days)	14	06	06
Actual imprisonment period	13	08	02

Actual sentence completed as on 30.06.2021 --
2 years, 8 months and 13 days."

4 In the light of the above, we are of the opinion that the petitioner's husband Selvamani (Ct.No.1176) will not be entitled to ordinary leave of 25 days in view of Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982, which reads as under:

"22. Eligibility for ordinary leave:



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(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."

5 However, in paragraph 5 of the counter affidavit, it is stated that the petitioner's husband Selvamani is entitled to emergency leave in a year to be spread over four spells, viz., 6 + 3 + 3 + 3, on the grounds mentioned in Rule 6, ibid.

6 In such perspective of the matter, we do not find any infirmity in the impugned order warranting interference. It is open to the petitioner or her husband Selvamani to apply for emergency leave with supporting documents, as and when such need arises.

In the result, this writ petition is dismissed, however, sans costs. Connected W.M.P. stands closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad

1. The Deputy Inspector General of Prisons,
Vellore,
Vellore District.
2. The Superintendent of Prisons,
Vellore Prison,
Vellore District.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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SR[co]
NSK 14/09/2021