



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Ms. Justice R.N.MANJULA

W.P.No.14604 of 2021

Lavanya

.. Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by its Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai - 9.
2. The Additional Director General of Prisons,
Thalamuthu Nataarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai - 8.
3. The Superintendent of Central Prison,
Vellore - 2.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records of the 3rd respondent in his proceedings No.6460/Tha.Ku.3/2021 dated 01.06.2021 and quash the same and consequently direct the respondents to grant 30 days leave to the petitioner's husband detenu viz., V.Senthil Kumar, Life Convict No.24027, detained in the Central Prison, Vellore, without police escort on the basis of petitioner's representation dated 22.05.2021.

For Petitioner : Mr.A.P.Sathyamoorthy

For Respondents : Mr.R.Muniyapparaj
Govt. Advocate (Crl.Side)



ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

This writ petition has been filed seeking to call for the records of the 3rd respondent in his proceedings No.6460/Tha.Ku.3/2021 dated 01.06.2021 and quash the same and consequently direct the respondents to grant 30 days leave to the petitioner's husband detenu viz., V.Senthil Kumar, Life Convict No.24027, detained in the Central Prison, Vellore, without police escort on the basis of petitioner's representation dated 22.05.2021.

2. The Superintendent of Prison, Central Prison, Vellore, has filed a counter affidavit dated 03.08.2021 justifying the impugned order, wherein, in paragraph no.2, it is stated as follows:

"2] It is humbly submitted that the averments contained in Para No.2 of the affidavit, the petitioner's husband Life Convict Prisoner No.24027 Senthilkumar S/o Kasi Viswanathan concerned in Kilkodungalore Police Station, Crime No.273/2005 was convicted u/s 302 r/w 34, 201 and 392 IPC and convicted and sentenced to imprisonment for life and fine Rs.50,000/- i/d R.I. for 3 years u/s 201 IPC, R.I. for 7 years and fine Rs.20,000/-i.d. R.I. for one year u/s 392 IPC (Fine Paid) and all sentences are ordered to run concurrently by the Principal District and Sessions Judge, Tiruvannamalai in S.C.No.126/2006 dt. 17.12.2007 and he was admitted in this Prison on 17.12.2007. He was released on bail on 13.03.2008 as per order of the Hon'ble High Court of Madras in C.A.No.89/ and 151/08 in C.M.P.No.1 & 2/08 dt.10.03.2008. On appeal, the sentence was confirmed by the Hon'ble High Court, Madras in C.A.No.89/2008 and 151/2008 dt.30.04.2009, and he was readmitted in this prison on 25.01.2018. Further, appeal was dismissed by the Hon'ble Supreme Court of India, New Delhi in SLP (Criminal) No.7327/2018 dt.13.08.2018."

3. Further, in paragraph no.5 of the counter affidavit, it is stated that Senthil Kumar will not be entitled to ordinary leave in view of the bar under Rule 21(b) of the Tamil Nadu Suspension of Sentence Rules, 1982 (for brevity "the TNSS Rules"), since he has been convicted of the offence under Section 392 IPC.



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4. Rule 21(b) of the TNSS Rules reads as follows:

"21. Non-eligibility for ordinary leave. - The following categories of prisoners shall not be eligible for ordinary leave:-

.....

(b) Prisoners sentenced under Section 392 to 402 of the Indian Penal Code (Central Act 45 of 1860);"

In view of the above, we do not find any infirmity in the impugned order warranting interference and hence, this writ petition stands dismissed. However, it is open to the petitioner to apply for emergency leave on the grounds set out under the TNSS Rules. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai - 9.
2. The Additional Director General of Prisons,
Thalamuthu Nataarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai - 8.
3. The Superintendent of Central Prison,
Vellore - 2.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

W.P.No.14604 of 2021

PL (CO)
PR (22/09/2021)