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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Writ Petition No.16114 of 2021

Kalaiselvi
W/o.Sankaranarayanan

...Petitioner

Vs

1. The State represented by its
Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
2. The Inspector General of Prison,
Office of Inspector General of Prison,
Gandhi Irvin Road,
Egmore, Chennai - 8.
3. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore - 607 401.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in No.11322/Tha.Ku.2/2021 dated 09.07.2021 on the file of third respondent and further, direct the respondents to grant parole for 30 days to the petitioner's husband, namely, Sankaranarayanan S/o.Somasundaram, CT No.16490, aged about 66 years, now confined at Central Prison, Cuddalore, without police security, for medical treatment.

For Petitioner : Mr.M.Muruganantham

For Respondents: Mr.R.Muniyapparaj
Government Advocate [crl.side]



O R D E R
[Order of the Court was made by P.N.PRAKASH, J]

This petition has been filed seeking to call for the records in No.11322/Tha.Ku.2/2021 dated 09.07.2021 on the file of third respondent and further, direct the respondents to grant parole for 30 days to the petitioner's husband, namely, Sankaranarayanan S/o.Somasundaram, CT No.16490, aged about 66 years, who is now confined at Central Prison, Cuddalore, without police security, for medical treatment.

2. It is the case of the petitioner that the trial Court, by judgment and order dated 22.11.2018 in Spl.S.C.No.13 of 2018, convicted and sentenced the petitioner's husband Sankaranarayanan (CT No.16490) as follows:

Provision under which convicted	Sentence
Section 6 of the POCSO Act, 2012	10 years rigorous imprisonment and fine of Rs.15,000/-, in default, to undergo 2 years simple imprisonment.
Section 506(ii) IPC	2 years simple imprisonment and fine of Rs.5,000/- in default 6 months simple imprisonment.

3. On appeal in Crl.A.No.806 of 2018, the learned Single Judge, by judgment and order dated 11.04.2019, while confirming the conviction and sentence for the offence u/s.506(II) IPC, modified the conviction for the offence u/s.6 of the POCSO Act, 2012, to one u/s.7 of the POCSO Act and sentenced Sankaranarayanan to undergo 5 years rigorous imprisonment.

4. Pursuant to the above, Sankaranarayanan is presently undergoing sentence in the Central Prison, Cuddalore. While that being so, the petitioner gave a representation seeking 30 days ordinary leave under the Tamil Nadu Suspension of Sentence rules for Sankaranarayanan, which was received by the Superintendent of Prison, Cuddalore, on 09.07.2021 and the same was rejected by the impugned order, aggrieved by which, the present Writ Petition has been filed.

5. Heard the learned counsel for the petitioner and learned Government Advocate [crl.side] appearing for the State.

6. Learned counsel for the petitioner submits that 30 days ordinary leave was sought on the ground that Sankaranarayanan was suffering from certain ailments for which immediate medical treatment requires to be given to him. However, the Superintendent of Central Prison, Cuddalore, has rejected the



leave application on the ground that Sankaranarayanan would not be entitled to any leave as he has not completed three years of imprisonment, which is a pre-requisite envisaged under Rule 22 (1) of the Tamil Nadu Suspension of Sentence Rules, 1982.

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7. Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982, reads as under:

' 22. Eligibility for ordinary leave. - (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.'

8. In view of the clear-cut mandate in Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982, set out above, we are afraid that Sankaranarayanan will not be entitled to ordinary leave until he completes three years of actual imprisonment. Hence, we do not find any infirmity in the impugned order warranting interference.

9. However, it is always open to the petitioner to seek emergency leave on the ground set out in Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982.

With the above observation, this Writ Petition stands closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.



2. The Inspector General of Prison,
Office of Inspector General of Prison,
Gandhi Irvin Road, Egmore,
Chennai - 8.

3. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore - 607 401.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Muruganantham, Advocate, S.R.No.42468

Writ Petition No.16114 of 2021

PCH (CO)
RGA (17/09/2021)