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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS. JUSTICE S.SRIMATHY

Writ Petition No.23701 of 2021

Sarvath Jahan
W/o.Saleem Basha

.. Petitioner/Mother of the Convict

Vs.

1. The Superintendent of Prison,
Central Prison,
Vellore.
2. The Secretary, Law & Prison Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the representation dated 25.10.2021 sympathetically and grant 15 days leave to the petitioner's son Sathiq Basha s/o.Salim Basha, Convict No.3315, who is confined at Central Prison, Vellore.

For Petitioner : Mr.R.Rajarathinam

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

O R D E R

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

This Writ Petition has been filed by the mother of the convict prisoner Sathiq Basha s/o.Salim Basha, Convict No.3315, who is presently lodged in Central Prison, Vellore, seeking leave under the Tamil Nadu Suspension of Sentence Rules, 1982.



2. Heard Mr.R.Rajaratnam, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor, appearing for the State.

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3. It is seen that a leave application for emergency leave was made to the Superintendent, Central Prison, Vellore, which has been rejected on 27.10.2021 on the ground that the convict prisoner has availed his quota of emergency leave. However, ordinary leave is being sought on the ground that the convict prisoner's wife met with an accident on 24.10.2021 and is hospitalized in Cauvery hospital with head injuries. A representation has been given to the Government for ordinary leave instead of giving it to the Range Deputy Inspector General of Prisons. Therefore, liberty is granted to the petitioner to approach the Deputy Inspector General of Prisons for leave and the same may be considered in accordance with the rules.

4. It appears that the appeal of the convict prisoner is pending on the file of this Court and therefore, it is open to him to seek for interim suspension of sentence and bail as the power of the appellate Court to grant suspension of sentence has been affirmed in the judgment of the Supreme Court in Dadu alias Tulsidas v. State of Maharashtra [(2000) 8 SCC 437].

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Superintendent of Prison,
Central Prison, Vellore.
2. The Secretary, Law & Prison Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.



3. The Public Prosecutor,
High Court, Madras.

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+1cc to Mr.R.Rajaratnam, Advocate, S.R.No.57371

Writ Petition No.23701 of 2021

GJ(CO)
SU(29/11/2021)