



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD) No.9288 of 2021

and

W.M.P.(MD) No.6993 of 2021

Durga Devi

... Petitioner

-vs

1. State of Tamilnadu,
Represented by the Principal Secretary to Government,
Home (Prison V) Department,
Secretariat, Fort St George,
Chennai - 600 009.
2. The Deputy General of Police/
Director General of Prisons and Correctional Services,
Whannels Road,
Egmore, Chennai - 08.
3. The Deputy Inspector General of Police,
Department of Prisons and Correctional Services,
Madurai Range, Madurai.
4. The Superintendent of Police,
O/o. Superintendent of Police,
Central Prison,
Madurai District,
Madurai.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.163/Voo.Tha.2/2021 dated 25.01.2021, on the file of respondent No.3 served on 01.05.2021 and quash the same as illegal and consequently directing the respondent Nos.2 and 3 to provide ordinary leave to the petitioner's husband namely Sankar (C.P.No.5697 - Central Prison, Madurai) on ordinary leave for one month for effecting arrangement of livelihood to the family of the petitioner and permit the petitioner's husband to visit his lawyer, relatives, to go to hospital, temples, and other places which similarly situated leave prisoner would be allowed.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents: Mr.S.Ravi
Standing counsel for Government

O R D E R

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(Order of the Court was made by V.BHARATHIDASAN, J.)

Challenging the order passed by the third respondent refusing to grant ordinary leave to the petitioner's husband, the present writ petition has been filed.

2. The petitioner's husband was convicted by the learned Sessions Judge, Madurai, in S.C.No.103 of 2015, for the offences under Sections 302 r/w. Section 34 of I.P.C. and sentenced to undergo life imprisonment. Challenging the said conviction and sentence, he filed an appeal before this Court in Crl.A.(MD).No.459 of 2017 and this Court, by judgment dated 24.09.2019, confirmed the order and dismissed the appeal, and he was confined in Central Prison, Madurai. Earlier, the petitioner sought for one month leave to the petitioner's husband viz., Sankar, under Section 20 of the Tamil Nadu Suspension of Sentence Rules, 1982. That application has been rejected by the third respondent, based on the report submitted by the Silaiman Police Station, Madurai, on the ground that there is a life threat to the petitioner's husband and there is a likelihood of law and order problem. Challenging the order of rejection, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the occurrence has taken place in the year 2012 and now, there is no imminent life threat to the petitioner's husband and there is no likelihood of law and order problem arises. Due to pandemic situation, he wants to make some arrangements to the livelihood of the family and hence, he sought for leave. But the third respondent has mechanically rejected the application.

4. Mr.S.Ravi, learned Standing counsel appearing for the respondents would submit that based on the application filed by the petitioner, a report has been called for from the Silaiman Police Station. In the report, it is stated that, it is a case of retaliation murder, there is a life threat to the petitioner's husband and there is a likelihood of law and order problem. Hence, this application was rejected by the third respondent.

5. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents and perused the materials available on record.

6. Under Section 20 of the Tamil Nadu Suspension of Sentence Rules, 1982, the petitioner's husband being the life convict is



entitled for ordinary leave not exceeding one month. Now, the petitioner's husband wants to make some arrangements to the livelihood of the family, due to pandemic situation. The occurrence has taken place in the year 2012 and so far the petitioner has not applied for ordinary leave. The learned counsel for the petitioner also submits that there is no life threat to the convict.

7. Considering the above facts, we are inclined to set aside the order passed by the third respondent. Accordingly, the order passed by the third respondent, dated 25.01.2021, is set aside and the third respondent is directed to consider the petitioner's application, on its own merit and pass orders granting ordinary leave to the petitioner's husband, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Principal Secretary to Government,
Home (Prison V) Department,
Secretariat, Fort St George,
Chennai - 600 009.
2. The Deputy General of Police/
Director General of Prisons and Correctional Services,
Whannels Road,
Egmore, Chennai - 08.
3. The Deputy Inspector General of Police,
Department of Prisons and Correctional Services,
Madurai Range, Madurai.



4. The Superintendent of Police,
O/o. Superintendent of Police,
Central Prison,
Madurai District, Madurai.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-27072[F] dated
24/08/2021)

W.P. (MD) No.9288 of 2021
23.08.2021

SR(CO)
KB(01.09.2021) 4P 7C