



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

W.P (MD)No.9438 of 2021

K.Perumai Selvi

... Petitioner

Vs.

1.The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director General of Prison and
Inspector General of Prison,
Whannels Road, Egmore,
Chennai-08.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

4.Deputy Inspector General,
Department of Prisons and Correctional Services,
Madurai Saragam,
Madurai.

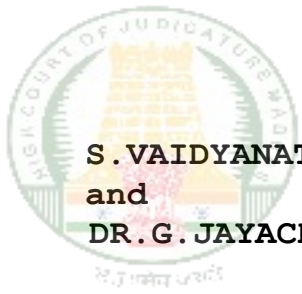
... Respondents

PRAYER: The Writ Petition filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus, directing the 3rd and 4th respondents to call for the record pertaining to the proceedings of the fourth respondent in No.1012/U.Tha.2/2021, dated 01.04.2021 and quash and to direct the third and fourth respondents to enlarge the petitioner's husband B.Kaliyugakannan, S/o.Balakrishnan (Conviction No.9681) to grant one month leave without escort, who is confined in the third respondent prison.

For Petitioner : Mr.G.Murugendran

For Respondents : Mr.S.Ravi

Additional Public Prosecutor



ORDER

S. VAIDYANATHAN, J.
and
DR. G. JAYACHANDRAN, J.

The request of the petitioner to grant leave for one month to her husband namely Kaliyugakannan without police escort was denied by the Prison Superintendent, vide order dated 01.04.2021 in view of Rule 35 of the Tamil Nadu Suspension of Sentence Rules 1982, which disables the convict seeking leave in case of wherever there is any other criminal case pending against the convict. The said order is under challenge in this writ petition by way of Certiorarified Mandamus.

2. There cannot be any exception under Rule 35 of the Tamil Nadu Suspension of Sentence Rules 1982 granting ordinary leave when the convict is facing the trial in some other case. In this case, the petitioner's husband was convicted for violation of NDPS Act for a term of 12 years. His request for one month ordinary leave not considered in view of pendency of Cr.No. 23 of 2013, under Section 506(i) IPC and Section 3 of TNPPDL Act on the file of the Thalavaipuram Police Station.

3. However, the learned Additional Public Prosecutor appearing for the respondents would submit that after filing of this writ petition, the convict was granted emergency leave on two spells. First from 12.06.2021 to 16.06.2021 and subsequently from 24.09.2021 to 01.10.2021.

4. Recording the submission of the learned Additional Public Prosecutor this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

To

1.The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director General of Prison and
Inspector General of Prison,
Whannels Road, Egmore, Chennai-08.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

4.Deputy Inspector General,
Department of Prisons and Correctional Services,
Madurai Saragam,
Madurai.

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

W.P (MD) No.9438 of 2021
16.12.2021

SAR(CO)
KB(29.12.2021) 3P 6C