



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

WP(MD)No.13160 of 2020 &

WMP(MD)No.11035 of 2020

WEB COPY

A.Kokila

... Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai.

2.The Additional Director General of Police,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai.

3.The Superintendant of Central Prison,
Central Prison, Tiruchirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records in proceedings No.12175/55/4/2020 dated 17.08.2020 and quash the same. Consequently, direct the respondent to grant medical leave to the (prisoner no.23096) for a period of 30 days without police escort on medical grounds pursuant to the petitioner's representation dated 14.08.2020.

For Petitioner	:Mr.C.M.Arumugam
For Respondents	:Mr.A.Robinson, Government Advocate (Criminal Side)

O R D E R

By consent, this Writ Petition is taken up for final hearing at this admission stage itself.

2. The present petition is filed to call for the records in proceedings No.12175/55/4/2020 on the file of the third respondent and direct the respondents to grant medical leave to the husband of the petitioner for a period of 30 days without police escort on medical grounds.

3. Mr.A.Robinson, learned Government Advocate (Criminal Side) accepts notice on behalf of the respondents.

4. The contention of Mr.C.M.Arumugam, learned counsel appearing for the petitioner is that the husband of the petitioner



was convicted for the offence punishable under Section 307 of Indian Penal Code (2 counts) and was sentenced to undergo Rigorous Imprisonment for 3 years and that the appeal preferred by the petitioner's counsel was dismissed confirming the conviction and sentence passed by the trial court. He further contended that since the husband of the petitioner is suffering from Inguinal Hernia, the petitioner submitted a representation dated 14.08.2020 requesting to grant 30 days of leave for her husband for medical treatment and that the said representation was rejected by the third respondent on the ground that "as per Rule 22 (1) of Tamil Nadu Suspension of Sentence Rules, 1982 no prisoner shall be granted ordinary leave unless he has been sentenced for a term or imprisonment for life for an offence against any law other than the 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". He also drew the attention of this Court to the Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982, and submitted that the Government may exempt any person from all or any of the provisions of these rules and that since the petitioner's husband is suffering from Inguinal Hernia, his representation should be considered sympathetically by the third respondent.

5. The third respondent / Superintendant of Central Prison, Central Prison, Trichy has filed a counter affidavit contending that the condition of the petitioner's husband is clinically stable and that as per Rule 22 (1) of Tamil Nadu Suspension of Sentence Rules, 1982, the petitioner is not entitled to get 30 days medical leave.

6. However, considering the facts and circumstances of the present case, the first respondent is directed to consider the representation dated 14.08.2020 afresh in the light of the provisions in Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982 within a period of four weeks from the date of receipt of a copy of this order / uploading of the order.

7. With the above observation, this petition is disposed of . No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

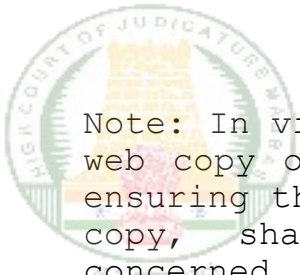
Assistant Registrar (CRL SIDE)

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/ /2021

Sub Assistant Registrar(CS)

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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.

WEB COPY

To

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VB (04.03.2021) 3P 4C