



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.08.2021

CORAM:

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P. (MD) .No.15191 of 2021

and

W.M.P. (MD) . No.12121 of 2021

M.Saravanan

... Petitioner

-vs-

1.The Government of Tamil Nadu,
rep. by Secretary to Government,
Home (Prison IV) Department,
Fort. St. George,
Chennai - 600 009.

2.The Additional Director General of Prison,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3. The Superintendent of Central Prison,
Trichy.

4. The Inspector of Police,
Nagudi Police Station,
Pudukottai District.

... 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 on the file of the third respondent in connection with the impugned order of rejection passed by him in his proceedings No.12594/Tha.Ku.4/2021 dated 16.08.2021 and quash the same as illegal and consequently direct the respondents to grant Parole to the petitioner in Convict Prisoner No.23309 at Central Prison, Trichy.

For Petitioner	:	Mr.G.Thalaimutharasu
For Respondents	:	Mr.S.Ravi
		Standing counsel for the State



O R D E R

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

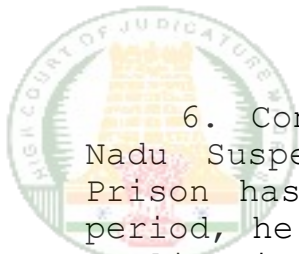
Challenging the order passed by the third respondent rejecting the petitioner's request seeking for ordinary leave, the present writ petition has been filed by the petitioner.

2. The petitioner is an accused in S.C.No.27 of 2015 on the file of the Mahila Court, Erode. The trial Court after full-fledged trial, convicted him for an offence under Section 366 of I.P.C and Section 6 of POCSO Act and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two years Simple Imprisonment for the offence under Section 366 I.P.C and for the offence under Section 6 of POCSO Act, sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two years Simple Imprisonment. Challenging the above conviction and sentence, an appeal has been filed in C.A.No.389 of 2016, in which, this Court has modified the life sentence to ten years Rigorous Imprisonment and now, he is undergoing the sentence. Since the petitioner is affected by Acute Immune Deficiency Syndrome (AIDS) and suffering from piles complaint. Earlier, he sought for ordinary leave and the third respondent also granted ordinary leave for 30 days. Thereafter, the petitioner filed a petition seeking extension for two more months, but the said petition was rejected by the third respondent under Rule 22(2) of the Tamil Nadu Suspension of Sentence Rules, 1982, challenging the same, the present writ petition has been filed.

3. Mr.G.Thalaimutharasu, learned counsel for the petitioner would state that the petitioner is suffering from Aids and also suffering from piles complaint and he was advised to take Ayurvedic treatment, which is the only remedy available for the above diseases. Therefore, the petitioner earlier availed one month ordinary leave and taken treatment. Now, the Doctor advised him to take treatment for two more months. Hence, he filed an application and that was rejected by the authority. He would further submit that the petitioner has made an application before the first respondent on 11.08.2021 and the same is still pending with the first respondent/Government, so far no order has been passed.

4. Mr.S.Ravi, learned Standing Counsel appearing for the respondents would submit that under Rule 22(2) of the Tamil Nadu Suspension of Sentence Rules, 1982, the Superintendent has the power to grant only 30 days ordinary leave, beyond that, he has no power and the Government have to consider the application.

5. We have considered the rival submissions made and perused the materials available on record.



6. Considering the fact that as per Rule 22(2) of the Tamil Nadu Suspension of Sentence Rules, 1982, the Superintendent of Prison has power to grant 30 days ordinary leave and beyond that period, he has no power and only the Government have to consider the application for leave. In such circumstance, we cannot find fault with the order passed by the third respondent. However, considering the fact that the petitioner's application is pending with the first respondent dated 11.08.2021, the first respondent is directed to consider the petitioner's application and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is closed. Connected W.M.P(MD)No.12121 of 2021 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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 Secretary to Government,
Government of Tamil Nadu,
Home (Prison IV) Department, Fort. St. George,
Chennai - 600 009.
- 2.The Additional Director General of Prison,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road, Egmore, Chennai - 600 008.
3. The Superintendent of Central Prison, Trichy.
4. The Inspector of Police,
Nagudi Police Station, Pudukottai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-27148[F] dated
25/08/2021)

W.P. (MD) No.15191 of 2021
25.08.2021

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