



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Seventh day of December Two Thousand and Twenty One
PRESENT

The Hon`ble Mr.Justice S.VAIDYANATHAN
and

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL MP(MD) No.10796 of 2021

IN

CRL A(MD)No.218 of 2021

SENGAISAMY

... APPELLANT/ACCUSED No.3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME NO.173/2003)

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant interim suspension to the petitioner's son namely Sengaisamy Prisoner No.LCT 6054 who is undergoing sentence us life convict in Central Prison, Madurai for the period of 5 days from 8/12/2021 to 12/12/2021 as emergency leave to do 11th day ceremony of the petitioner's mother namely Lakshmiammal, based on his representation dated 02.12.2021.

PRAYER IN CRL A(MD)No.218 of 2021:

To call for the records relating to the judgment in S.C.No.139/2010 dated 17.04.2021 on the file of the Principal Sessions Judge, Sivagangai set aside the same and allow this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SUBASH BABU.M, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner herein is the third accused in S.C.No.139 of 2010, found guilty for the offence under Sections 148, 341, 302 r/w 149, 307 r/w 149 IPC and 6 of Explosive substances Act, 1908. He was sentenced to undergo life imprisonment for the offences under Section 302 r/w 149 IPC and rigorous imprisonment for various terms for the other offences.



2. According to the affidavit filed in support of the petition, the mother of the convict died on 30.11.2021. The life convict was granted one day emergency leave to perform funeral ceremony. Now the present petition is filed to perform the other ceremonies, which is to be conducted to satisfy the departed soul. The convict, being the elder son of the deceased Lakshmiammal, seeks five days emergency leave to conduct the ceremony of his deceased mother from 08.12.2021 to 12.02.2021. However, the respondent has not considered the representation and hence the present petition.

3. The learned Additional Public Prosecutor would rightly contend that the Tamilnadu Suspension of Sentence Rules does not provide for granting emergency leave on the ground of conducting the 11th day ceremony of the dead person. As far as this convict is concerned, for conducting the last rites of the departed soul, authorities granted one day emergency leave to the convict, there is no reason or provision to extend that for the 11th day ceremony also. It is further contended by the learned Additional Public Prosecutor that consequence to the murder case in which the present convict is involved, there was a retaliation murder by the deceased family in which two of the accused persons in the present case were done to death pending trial and therefore, there is life threat for this life convict, who was originally arrayed as A3 and later arrayed as A1, after the death of actual A1 and A2.

4. The learned counsel for the petitioner/convict would submit that on humanitarian ground even if the law does not provide, Court may extend the relief of granting leave to satisfy the departed soul by conducting 11th day ceremony.

5. On considering the rival submissions, this Court is of the view that since the 11th day ceremony of the departed soul is fixed on 10.12.2021, it will be suffice to grant one day emergent leave to the petitioner/convict(LCT.6054), S/o.Thandidevan, with following conditions:

(i) the petitioner/convict, Sengaisamy(LCT.6054)S/o.Thandidevan, shall be taken with escorts at the cost of the convict on 10.12.2021;

(ii) the convict shall report before the prison authorities at 06.30 p.m., on the same day.

6. With these directions, this petition is ordered accordingly.

sd/-

07/12/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
SIVAGANGAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
THIRUPPACHETHY POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 cc to Mr.M.SUBASH BABU, Advocate, SR.No.8941

ORDER

IN

CRL MP(MD) No.10796 of 2021
IN

CRL A(MD)No.218 of 2021

Date :07/12/2021

SA/VR/SAR.2/07.12.2021/3P/6C