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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P. NO.9558 OF 2022

D.Ashok Kumar

.. Petitioner/
Son of the Detenu

Vs.

The State rep. by its

1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 9.
2. The Deputy Inspector General of Prison,
Coimbatore Range,
Coimbatore - 641 018.
3. The Superintendent,
Central Prison,
Salem - 636 007.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to direct the respondents to extend the ordinary leave without escort for three months from 18.04.2022 to the detenu Devaraj, S/o.Arumugam, aged about 60 years, Convict No.8935 confined at Central Prison, Salem.

For Petitioner : Ms.S.Lakshmi

For Respondents : Mr.M.Babu Muthumeeran
Addl. Public Prosecutor



ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

Seeking extension of ordinary leave without escort for three months from 18.04.2022 to the convict prisoner Devaraj, S/o.Arumugam, aged about 60 years, Convict No.8935 confined at Central Prison, Salem, the petitioner, who is the son of convict prisoner, filed this petition for a writ of mandamus.

2. On 18.04.2022, we passed the following order:

The convict prisoner Devaraj s/o.Arumugam [CT No.8935] was granted ordinary leave under the Tamil Nadu Suspension of Sentence Rules, 1982, by the prison authorities on 28.02.2022 for thirty (30) days, according to which, he was required to surrender before the prison authorities on 18.04.2022. The convict prisoner was released from the prison. While he was on leave, he was taking medical treatment for acute diabetes. While so, the present writ petition has been filed for a direction to extend the leave on the ground that he is required to undergo a surgery for removal of a toe on account of diabetes.

2. When the matter came up for hearing on 13.04.2022, we directed Mr.R.Muniyapparaj, learned Additional Public Prosecutor, to take notice for the respondents.

3. Today, Mr.R.Muniyapparaj, learned Additional Public Prosecutor, submitted that the request of the convict prisoner for extension of his leave beyond thirty (30) days has been rejected by the authorities on 13.04.2022 as there is no provision in the rules for extension of leave. However, learned Additional Public Prosecutor placed on record the report dated 16.04.2022 given by the Probation Officer, which states that the convict prisoner is under treatment in his house and on account of acute diabetes, his left leg index toe has to be removed. The Probation officer has stated that the reason given for seeking extension of leave is genuine.

4. We are of the opinion that we cannot act on the report of the Probation Officer, who is not a medically qualified person. It is the duty of the State to provide free medical treatment to convict prisoners and ensure that they remain healthy. Only if the prison doctors certify that they do not have the facilities to provide the required medical treatment for a convict prisoner can there be an intervention by the Court for permitting the convict prisoner to take medical



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treatment at his costs in a private hospital and not otherwise.

5. Therefore, we direct the petitioner to produce the convict prisoner Devaraj s/o.Arumugam [CT No.8935], before the prison authorities for medical check up forthwith and the prison authorities are directed to submit a report to this Court on the next hearing date. In the mean while, we direct the prison authorities not to take any coercive steps to secure the convict prisoner Devaraj s/o.Arumugam [CT No.8935] for overstayal of his leave.

Call on 25.04.2022.

3. When the matter was taken up for hearing, learned counsel for the petitioner and the learned Additional Public Prosecutor submitted that the convict prisoner Devaraj (CT No.8935) surrendered before the prison authorities on 18.04.2022. Learned counsel for the petitioner contended that the health condition of the convict prisoner is still bad and requires treatment.

4. In view of the above, we direct the prison authorities to give the best treatment to the convict prisoner at State's cost in any of the Government hospitals and if there is no facility therein, the prison authorities may grant ordinary leave to the convict prisoner if the Rules provide for such treatment.

5. With the above observation, the writ petition stands closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 9.
2. The Deputy Inspector General of Prison,
Coimbatore Range,
Coimbatore - 641 018.



3. The Superintendent,
Central Prison,
Salem - 636 007.

4. The Public Prosecutor,
High Court, Madras.

W.P.No.9558 of 2022

RR (CO)
PM/10/05/2022