



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2022

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.NO.12057 OF 2022

Shamma

... Petitioner/
W/o of the Detenu

Vs.

1. The State represented by its
The Secretary to Government of Tamilnadu,
Department of Home,
Fort St.George,
Chennai-600 009.
2. The Additional Deputy General of Prison,
Central Prison,
Coimbatore-641 018.
3. The Superintendent,
Central Prison,
Coimbatore-641 016

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus, directing the respondents to grant leave for 30 days for the detenu, Aslam S/o.Jainulapudin aged about 45 years, life Convict No.18819, detained at Central Prison, Coimbatore.

For Petitioner : M/s.S.Lakshmi
For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor

ORDER

(Order was delivered by S.M.SUBRAMANIAM, J.)

Writ of Mandamus has been instituted to direct the respondents to grant leave for thirty days for the detenu one Aslam S/o.Jainulapudin, aged about 45 years detained at Central Prison, Coimbatore.



2. The petitioner is the wife of the detenu filed the Writ Petition for grant of thirty days leave to the detenu. The detenu is the life convict prisoner and is in prison for about 22 years. He was convicted and sentenced to undergo life imprisonment under Section 302 r/w 34 I.P.C., 120(b) and 149 in S.C.No.456 of 2000 by the Additional District Sessions Judge and Fast Track Court II, Madurai dated 02.05.2003.

3. The petitioner states that her mother-in-law and two year old son are suffering certain ailments and the petitioner herself is having certain health issues. The mother of the detenu is also a diabetic patient and taking treatment for cardiac problems. Therefore, she has to take care of her mother-in-law and her son simultaneously. However, the nature of ailments stated in the petition reveals that the mother-in-law of the petitioner is suffering from severe diabetic, high blood pressure, knee problem and cardiac problem.

4. The learned Additional Public Prosecutor appearing for the respondents raised an objection by stating that the detenu is not eligible for leave as per the Prison Rules and further, SLP.(CRL)No.24293 - 24297/2010 filed by the detenu is pending before the Hon'ble Supreme Court of India. Therefore, as per the Prison Manual, the detenu is not eligible to avail any leave as of now.

5. Ailments like diabetic, blood pressure cannot be a ground to grant leave by the High Court in such cases and if the detenu is otherwise eligible for leave in accordance with the Prison Rules, then alone it has to be considered. In the present case, the Superintendent of Prison in his letter dated 11.05.2022 addressed to the Public Prosecutor stated that the detenu is not eligible for leave under the Prison Rules and further SLP is also pending and thus, the leave cannot be granted.

6. We are of the considered opinion that while granting leave, the Courts have to take all the issues into consideration. Mere prolonged ailments like diabetic, blood pressure are insufficient to grant leave for thirty days. Misplaced sympathy in this regard may result in certain serious consequences in respect of such life convicts and only in the event of eligibility, the benefit of leave is to be granted. In extraordinary circumstances, the Courts have to grant leave considering certain peculiar circumstances and thus, granting leave for a detenu in such circumstances can never be a routine affair.



7. In view of the facts and circumstances, the grounds for seeking leave are insufficient to consider the relief and accordingly, the Writ Petition stands dismissed. No Costs.

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Sd/-
Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

Anu/Sgl

To

1. The Secretary to Government of Tamilnadu,
Department of Home,
Fort St.George,
Chennai-600 009.
2. The Additional Deputy General of Prison,
Central Prison,
Coimbatore-641 018.
3. The Superintendent, Central Prison,
Coimbatore-641 016.
4. The Public Prosecutor,
High Court, Madras.

W.P.No.12057 of 2022

SRA (CO)
RLP (27/05/2022)