



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.NO.14267 OF 2022

K.V.Komarasamy

...Petitioner / Father of the
detenue

Vs

The State represented by its,

1.The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai-600 009.

2.The Deputy Inspector General of Prison,
Madurai Zone (Central Prison),
Madurai - 625 016.

3.The Superintendent,
Central Prison,
Palayamkottai-627 007.

...Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India to direct the respondents to grant
ordinary leave for one month without escort to the detenue, Balu
@ Dhanapal, S/o.Komarasamy, aged about 41 years, Convict
No.4577, confined at Central Prison, Palayamkottai.

For Appellants : Mr.Dr.S.Manoharan

For Respondent : Mr.E.Raj Thilak, APP.

O R D E R

This Writ Petitioner has been filed for a direction to the
respondents to grant ordinary leave for one month without escort
to the detenue, Balu @ Dhanapal, S/o.Komarasamy, aged about 41
years, Convict No.4577, confined at Central Prison,
Palayamkottai.



2. The Petitioner, who is the father of the detenue has submitted that his son has been convicted and sentenced for various offences and undergoing incarceration. He has further submitted that his wife / detenue's mother, who was admitted in Rajiv Gandhi Government Hospital, Chennai for treatment due to serious illness, has passed away in the afternoon of 05.06.2022 and her funeral ceremony took place on 06.06.2022. The detenue / convict was granted emergency leave for three days and the period expires today at 05:00pm. He has also submitted that since post death funeral ceremony is scheduled on the 3rd day of her death, which falls on 09.06.2022 and the 16th day falling on 21.06.2022, the detenue may be granted ordinary leave for one month.

3. Learned Additional Public Prosecutor appearing for the State has strongly opposed to the grant of leave for one month, stating that taking note of the death of the detenue's mother, he was granted emergency leave to fulfil his customary rites. The Rule provisions do not permit to grant ordinary leave for one month, especially when the detenue had already availed the leave for maximum number of days in a year previously.

4. Admittedly, the mother of the detenue expired on 05.06.2022 and the 3rd day death ritual from the date of last honour falls on 09.06.2022. The question whether the ordinary leave can be granted or not cannot be gone into by this Court at this stage, as it is for the Authority to decide on the same. We are of the view that as a dutiful son, he has to complete his customary rites on the 3rd day. In any event, the relief sought for, namely, leave for month cannot be granted.

5. In the result, this Writ Petition is disposed of, extending the leave for another two days and the detenue is directed to surrender himself before the Prison Authorities on 10.06.2022 at 05:00pm, failing which the Respondents shall take steps to secure the detenue and confine him in jail. It is made clear that no further extension of leave will be granted to the detenue at any cost. No costs.

Sd/-
Assistant Registrar (CS-VI)

// 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-600 009.

2.The Deputy Inspector General of Prison,
Madurai Zone (Central Prison),
Madurai - 625 016.

3.The Superintendent,
Central Prison,
Palaynkottai - 627 007.

+1cc to Dr.S.Manoharan, Advocate Sr.No.33169

W.P.No.14267 of 2022

RP(CO)
SB(09/06/2022)