



Writ Petition No.21068 of 2022

Writ Petition No.21068 of 2022

P.N.PRAKASH, J

and

R.HEMALATHA, J

[Made by **P.N.PRAKASH, J**]

On 26.08.2022, this Court passed the following order:

"Seeking a direction to call for the records made in No.10916/Tha.Ku.3/2022 dated 21.07.2022 on the file of the third respondent herein and quash the same as illegal and direct the first respondent to grant one month leave to the life convict Thimmappa @ Uthira Thimmappa, Life Convict No.16711, now confined in the Central Prison, Vellore, before this Court, the petitioner has filed the present writ petition.

2. The petitioner is the daughter of one Gangappa. The said Gangappa and his brother Thimmappa @ Uthira Thimmappa, Life Convict No.16711, were life convicts in the same case. The petitioner's father Gangappa passed away, while he was in prison. It is the case of the petitioner that her marriage is fixed on 01.09.2022 and since her father is dead, her paternal uncle viz., Thimmappa @ Uthira Thimmappa, has to perform the customary practices during the marriage and thereby, she had sought 30 days leave for Thimmappa. However, the respondents have rejected her request by proceedings dated 21.07.2022 in No.10916/Tha.Ku.3/2022, stating that Thimmappa @ Uthira Thimmappa is not a blood relative to the petitioner and hence, he could not be entitled to leave in terms of Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982 (for brevity "the TNSS Rules").

3. The learned Additional Public Prosecutor would submit that Thimmappa @ Uthira Thimmappa being the paternal uncle, will not fall within the meaning of blood relative and thereby, he is not entitled to leave and therefore, the respondents have



WEB COPY



Writ Petition No.21068 of 2022

rejected the application filed by the petitioner. Further, he would submit that a report of the Probationary Officer dated 24.08.2022 has been received, wherein, it has been stated that the marriage of the petitioner has been scheduled on 01.09.2022 and the reception is to be held on 31.08.2022.

4. Heard Mr.R.Sankarasubbu, learned counsel for the petitioner and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the respondents.

5. For the sake of convenience, Rule 20 of the TNSS Rules is extracted hereunder:

“20.Grounds for the grant of ordinary leave.- The ground for the grant of ordinary leave to a prisoner shall be-

(i) to make arrangements for the livelihood of his family and for the settlement of life after release;

(ii) to make arrangements for the admission of the children in the school or college;

(iii) construction or repairing the home-stead;

(iv) to make arrangements or to participate in the marriages of sons, daughters, full brother or full sisters;

(v) settling family disputes like partition, etc.

(vi) agricultural operations like sowing, harvesting, etc.; and

(vii) any other extraordinary reasons.”

6. A narrow reading of the above Rule cannot be accepted in the present case at hand. As the petitioner's father had passed away, Thimmappa @ Uthira Thimmappa being his elder brother, steps into the shoes of the status of a parent, who has to give in marriage of the petitioner in terms of Hindu Laws. As per the customs, the father will have to give his daughter in marriage to a person.

7. As stated above, in the present case, the petitioner's father is no more and the elder brother of the deceased viz., Thimmappa, who is the uncle of the petitioner, is obligated to perform the marriage ceremonies and to give in marriage of the



Writ Petition No.21068 of 2022

petitioner, for which, he is entitled to leave.

8. Hence, we are of the view that the order of rejecting the petitioner's request is not in consonance with Rule 20 of the TNSS Rules, which is extracted *supra*.

9. Accordingly, the following directions are issued:

- i. The respondents shall release the petitioner's uncle viz., Thimmappa @ Uthira Thimmappa, Life Convict No.16711, from the Central Prison, Vellore, on leave for a period from 29.08.2022 to 03.09.2022.
- ii. Thimmappa @ Uthira Thimmappa shall be taken from the Central Prison, Vellore, at 10.30 a.m. on 30.08.2022 and brought back to the Central Prison, Vellore, at 5.30 p.m. on 03.09.2022, without escort, subject to the petitioner furnishing aforesaid two sureties.

With the above directions, this writ petition stands disposed of. No costs.

Post the matter 'for reporting compliance' on 05.09.2022."

2. Today, when the matter was taken up for hearing, learned counsel for the petitioner and learned Additional Public Prosecutor submitted that the detenu Thimmappa @ Uthira Thimmappa has surrendered before the prison authorities on 03.09.2022.

P.N.PRAKASH, J



WEB COPY



Writ Petition No.21068 of 2022

and
R.HEMALATHA, J

gm

The aforesaid submission is recorded. This petition is closed.

[P.N.P., J] [R.H., J]
05.09.2022

Index: Yes/No
gm

Writ Petition No.21068 of 2022