



WEB COPY



W.P. No.28879 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 11.11.2022

DELIVERED ON: 29.11.2022

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

W.P. No.28879 of 2022

Visalakshi

Petitioner

VS

- 1 State of Tamil Nadu
represented by its Secretary
Home (Prison) Department
Fort St. George
Chennai 600 009
- 2 The Additional Director General of Police and
Inspector General of Prison
Tamil Nadu Prison Department
Gandhi Irwin Road
Egmore
Chennai 600 008
- 3 The Superintendent of Prison
Central Prison
Puzhal – 1
Chennai

Respondents



W.P. No.28879 of 2022

Writ Petition under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to retain the petitioner's husband, viz., P. Nagendran, a life convict (No.1236), now confined in the third respondent prison, based on the order dated 03.08.2022 passed by this Court in W.P. No.472 of 2022 by considering the petitioner's representation dated 03.10.2022 and the medical report dated 14.10.2022 issued by Rela Hospital authorities, Chennai.

For petitioner	Mr. S. Hameed Ismail
For respondents	Mr. R. Muniyapparaj Additional Public Prosecutor

ORDER

P.N.PRAKASH, J.

The petitioner's husband Nagendran is a life convict (No.1236). While he was undergoing the sentence imposed on him, he developed some complications in his liver and at his cost, this Court permitted him to undergo liver transplantation at Rela Hospital, Chennai. Accordingly, liver transplantation was also done on 07.04.2018. He was discharged from the hospital on 26.12.2018 and was advised to be kept under hygienic circumstances. On administrative grounds, he was transferred from the Central Prison, Puzhal, Chennai to the Central Prison, Vellore. In the



W.P. No.28879 of 2022

meanwhile, he was also released on parole on the orders of this Court. The petitioner moved the Supreme Court in S.L.P. (Crl.) No.1979 of 2019 seeking extension of parole which was dismissed *vide* order dated 12.03.2019 and the relevant portion of the said order reads thus:

“23. We do not consider the present to be a fit case for interference and for extension or grant of further parole. The primary grievance of the petitioner is that the convict (husband of the petitioner) being a liver transplant case, may require immediate medical attention which may not be available in the close vicinity of the Vellore Central Jail, where the convict is presently lodged.

In view of the aforesaid apprehensions expressed by the learned counsel on behalf of the petitioner, we direct that the convict be transferred and lodged in the Puzhal Central Jail, Chennai, which is close to the specialized medical centres for care, if the convict be in need of such care.”

2 While so, the petitioner filed W.P. No.472 of 2022 for a direction to the prison authorities to shift Nagendran from the Central Prison, Vellore, to the Central Prison, Puzhal, Chennai, for the purpose of complete liver treatment, in which, a coordinate bench of this Court, passed the following order on 03.08.2022:

“7. Though the petitioner was originally detained in Central Prison I, Puzhal, for the best administrative reasons, he has been shifted to Central Prison, Vellore, on 29.12.2001. By looking at various offences said to have been committed by the petitioner's husband inside the prison, we cannot interfere with the



WEB COPY



W.P. No.28879 of 2022

administrative grounds for shifting the convict from Central Prison, Vellore to Central Prison I, Puzhal.

8. Taking note of the fact that the petitioner's husband is suffering from liver complications and that review and periodical medical check up is required, we are inclined to permit the petitioner's husband to be shifted from Central Prison, Vellore to Central Prison I, Puzhal for a period of three months i.e. from 04.08.2022 to 04.11.2022 and it is for the respondents to take a decision depending upon the reports of the Doctors to shift the prisoner from Central Prison I, Puzhal to any other prison. We make it very clear that the conditions that may be stipulated by the authorities in terms of the prison rule will have to be duly complied with by the convict while detained at Central Prison I, Puzhal.

9. In view of the above, the Writ Petition is disposed of.”

3 Now, the instant writ petition has been filed to retain Nagendran in the Central Prison, Puzhal, for the purpose of treatment in Rela Hospital, Chennai.

4 Heard Mr. Hameed Ismail, learned counsel for the petitioner, who submitted a report dated 10.11.2022 from Rela Hospital, wherein, the details of drugs that are administered to Nagendran have been set out and in the remarks column, it is stated as follows:

“He should continue to take high protein diet (at least 5 eggs a day) and avoid long distance travel.”

5 Based on this remark, the learned counsel for the petitioner



W.P. No.28879 of 2022

contended that it will not be advisable to bring Nagendran from Vellore to Rela Hospital in Chennai frequently as the distance one way is 140 kms. and therefore, he should be retained in the Central Prison, Puzhal, Chennai.

6 In response to this submission, the Superintendent of Prisons, Central Prison, Puzhal, has filed a detailed counter affidavit dated 11.11.2022 setting out the various prison offences that were committed by Nagendran in the prison, both at Vellore and Puzhal. It is further stated in the counter affidavit that even as recently as 17.10.2022, he was found in possession of Rs.2,000/- which he thrust into the pocket of the prison electrician for which his PCP privileges were suspended for one month. In paragraphs 12 and 13 of the counter affidavit, it is stated as follows:

“12. ... It is submitted that now intelligence reports have been received that the above said prisoner is facing threat in Central Prison-I, Puzhal, from the rival gang members who are presently lodged in Central Prison-I, Puzhal as convict prisoners, and these 2 gang members have bitter rivalry between them, and hence to keep the said prisoner under high security till his temporary stay in Central Prison-I, Puzhal.

13. Further, based on the report from the Rela Institute, it is evident that only normal blood tests are carried out on the said prisoner, and his health condition is normal. There are no complications developed by the said prisoner in the past 3 years after



WEB COPY



W.P. No.28879 of 2022

his operation which require any highly specialised investigation/treatment. These post operative tests can be managed in Christian Medical College and Hospital, Vellore which is a world renowned hospital with far higher and specialised medical facilities and the said prisoner can be medically managed there. Hence, on the fact that the prisoner's health condition is normal, and he has not developed any post operative complication on the past 3 years, and he was only sent to Rela Institute as out patient for periodical check-up of the routine normal visits, and the fact that there was no any specialized investigation carried out on the prisoner as inpatient or otherwise, it is submitted that there is no any medical necessity that the said prisoner should stay in Chennai for treatment in Rela Institute only anymore and that he can be managed at hospitals like CMC, Vellore with better and highly specialized medical facilities.”

7 This Court gave its anxious consideration to the rival submissions.

8 To be noted, no prisoner can, as a matter of right, demand that he be retained in a particular prison of his choice. Transfer of a prisoner from one prison to another is done for various reasons on administrative grounds, sometimes, for the purpose of maintaining discipline and hence, this Court should not interfere routinely in such transfers.

9 At present, because of threat to Nagendran's life from some



W.P. No.28879 of 2022

accused who are lodged in the Central Prison, Puzhal, he is being kept in the high security prison. Liver transplantation was done to him in the year 2018 and it is not necessary that every time he should have to be brought to Rela Hospital in Chennai for check up. In fact, the Supreme Court has very clearly stated in the order dated 12.03.2019 that he may kept in the Central Prison, Puzhal, only till such time he is in need of such care.

10 That apart, as stated above, liver transplantation was done in the year 2018 and we are in 2022. Even the recent report of Rela Hospital does not show that the prisoner has developed any post-operative complications warranting round-the-clock treatment there. The CMC, Vellore and also the Government Medical College and Hospital, Vellore, have the state-of-the-art medical facilities now to handle all sorts of diseases and ailments. There is no report from these hospitals that they cannot handle the present medical needs of Nagendran. In the absence of any such report, we cannot presume that CMC, Vellore and the Government Medical College and Hospital, Vellore, will not be in a position to conduct regular check up of Nagendran's health and regulate the dosage of



W.P. No.28879 of 2022

medicines.

WEB COPY

11 In view of the above discussion, we find no reason to direct Nagendran's retention at the Central Prison, Puzhal, as prayed for by the petitioner. Of course, whenever Nagendran is produced for check up at CMC, Vellore or the Government Medical College and Hospital, Vellore, if the doctors opine that they cannot handle his case, it is needless to state that he be produced at Rela Hospital for treatment and kept in the Central Prison, Puzhal.

In the result, this writ petition stands dismissed. No costs.

[P.N.P., J.] [TKR., J.]
29.11.2022

cad



W.P. No.28879 of 2022

WEB COPY

To

- 1 The Secretary
Home (Prison) Department
State of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The Additional Director General of Police and
Inspector General of Prison
Tamil Nadu Prison Department
Gandhi Irwin Road
Egmore
Chennai 600 008
- 3 The Superintendent of Prison
Central Prison
Puzhal – 1
Chennai



WEB COPY



W.P. No.28879 of 2022

P.N.PRAKASH, J.

and

RMT.TEEKAA RAMAN, J.

cad

W.P. No.28879 of 2022

29.11.2022