



W.P.No.32676 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and

The Honourable Mr. Justice **N.ANAND VENKATESH**

Writ Petition No.32676 of 2022
and

W.M.P.No.32063 of 2022

Sarvath Jahan

..... Petitioner

-Versus-

1. Director General of Prisons
Prison Department
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2. The Superintendent of Prison,
Central Prison,
Vellore.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a *writ of certiorari* calling for the records pertaining to the order dated 29.03.2022 made in No.2670/TK4/2021 on the file of the Superintendent of Prisons, Central Prisons, Vellore, the 2nd Respondent herein and quash the same.



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For Petitioner : Mr.R.Rajan

*For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor*

ORDER

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

The petitioner gave a representation dated 19.07.2022 to the prison authorities for transferring her son, viz., Sathiq Basha, a convict prisoner (CT No.3315), from Central Prison, Vellore to Central Prison, Puzhal, Chennai, and the same was considered by the 2nd respondent and rejected by order dated 29.03.2022 after considering the report of the Probation Officer and the remarks of the Superintendent of Central Prison, Vellore.

2. The order impugned in this writ petition essentially states that the request is rejected on administrative grounds based on the report of the Probation Officer and the remarks of the Superintendent of Central Prison, Vellore. Challenging the same, the present writ petition has been filed.

3. In the mean while, the petitioner appears to have given another representation dated 15.08.2022, which has also been rejected by the



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Director General of Prisons and Correctional Services. In the said order, it is stated that for the security and administrative reasons, the convict prisoner cannot be transferred from Central Prison, Vellore, to Central Prison, Puzhal, Chennai.

4. Rule 568 of the Tamil Nadu Prison Rules, 1983, states the grounds, reasons and the circumstances under which a prisoner can be transferred from one prison to another. We are conscious of the fact that the prison authorities in order to maintain discipline in the prison are empowered to transfer a prisoner from one prison to another and no prisoner can, as a matter of right, ask for his transfer to another prison.

5. In the instant case, it appears that while this prisoner was in Central Prison, Puzhal, Chennai, he came to the adverse notice of the prison authorities and his activities in the prison warranted his transfer to Central Prison, Vellore, in the year 2018. However, the petitioner, who is the mother of the convict prisoner and is residing in Chennai, is suffering from serious Heart and Kidney ailments, wants to visit her son before her demise.



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In fact, the learned counsel for the petitioner contended that even if the convict prisoner is transferred for a period of three months so that his mother could visit him during that period would suffice. He further contended that his mother finds it very difficult to travel all the way to Vellore, for visiting her son.

6. Rule 568 (iv) of The Tamil Nadu Prison Rules, states that transfer of a prisoner can be effected on humanitarian grounds in the interest of rehabilitation of the prisoner. In the instant case, the convict prisoner has been sentenced to ten years of rigorous imprisonment out of which he has already undergone seven years of rigorous imprisonment. Thus, he only has a balance of three more years to undergo the substantive sentence of imprisonment. Under such circumstances, we find that the request of the learned counsel for the petitioner for transferring the convict prisoner for a period of three months, at least, on a temporary basis would merit consideration. Though we are sustaining the impugned orders, we issue a direction to the 1st respondent to consider the case of the said convict prisoner in the light of Rule 568 of the Tamil Nadu Prison Rules, referred to



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supra, and transfer him for a period of three months from Central Prison, Vellore, to Central Prison, Puzhal, Chennai. If the convict prisoner misuses this privilege in Central Prison, Puzhal, Chennai, it would be open to the 1st respondent to immediately transfer him out of Central Prison, Puzhal, Chennai, without waiting for the expiry of three months period.

In the result, this Writ Petition is ordered accordingly with the above directions. Consequently, connected WMP stands closed.

(P.N.P., J.) (N.A.V.,J.)
20..12..2022

Index: yes/no
kmk

To

1. Director General of Prisons Prison Department
Gandhi Irwin Road, Egmore, Chennai – 600 008.
2. The Superintendent of Prison, Central Prison, Vellore.
3. The Public Prosecutor, High Court, Madras.



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