



W.P.(MD)No.5749 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.09.2022

CORAM

The Honourable Mrs. Justice **J.NISHA BANU**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

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S.Karumeniammal

... Petitioner

Vs

The State represented by its
1.The Deputy Inspector General of Prison,
Madurai Range,
Madurai.
2.The Superintendent
Central Prison
Palayamkottai 627 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.371/Vu.Tha2/2022 dated 01.02.2022 issued by the 1st respondent and quash the same and consequently direct the respondents to grant leave for one month without escort to the detenu Palani, S/o.Sankarapandi, aged about 47 years, life convict prisoner, bearing convict No.4296 detained at Central Prison, Palayamkottai.



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For Petitioner : Mr.R.Narayanan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

J. NISHA BANU,J.
and
N. ANAND VENKATESH,J.

This writ petition has been filed challenging the impugned order dated 01.02.2022 passed by the first respondent rejecting the request made by the petitioner seeking for the ordinary leave of her son, who is undergoing life imprisonment for an offence committed under Section 302 IPC in Central Prison, Palayamkottai.

2.The case of the petitioner is that her son was convicted and sentenced to undergo life imprisonment. The petitioner is said to be 81 years old and she has some health ailments. Since the petitioner is in the evening of her life, she wants to be with her son for sometime. Hence, the petitioner made a representation to the respondents requesting for granting ordinary leave to her son. Since the same was rejected, the present writ



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petition has been filed before this Court.

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3.The first respondent has filed a counter affidavit. The main objection that has been stated in the counter affidavit is that the recommendation of the Superintendent of Prison and the report of the Probation Officer was considered and thereafter a decision was taken not to grant leave to the detenu. Even on an earlier occasion, a similar request was made and it was rejected and it was also confirmed by this Court in W.P. (MD) No.1667 of 2022, by order dated 21.02.2022.

4.The learned Additional Public Prosecutor submitted that the report of the Superintendent of Prisons and the Probation Officer is not in favour of the detenu. The learned Additional Public Prosecutor further submitted that the detenu was having intimacy with yet another woman and if he is let out, there is a chance of some communal tension. That apart, there was yet another murder case against the detenu. In view of the same, the learned Additional Public Prosecutor submitted that there is no ground to interfere with the impugned order passed by the first respondent.



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5. In the considered view of this Court, Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'the Rules') deals with grounds on which ordinary leave can be granted to a prisoner. In the present case, the mother of the detenu is aged about 81 years and she is facing health related ailments. That apart, she has not met her son for more than four years and therefore, she wants to be with the detenu for sometime. This reason will fall within the scope of Rule 20 of the Rules. The detenu does not face any disqualification as provided under Rule 21 of the Rules. Insofar as the other case of murder, which was pointed by the learned Additional Public Prosecutor, the detenu has been acquitted from the said case in S.C.No.84 of 2007 through judgment dated 10.10.2014. There has been no adverse reports against the detenu and the mere apprehension that has been raised by the Superintendent of Prisons and the Probation Officer cannot be a ground to reject the request made for granting ordinary leave to the detenu. This Court is convinced with the request made by the petitioner and hence, leave can be granted to the detenu by imposing stringent conditions.



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6. In view of the above discussion, the impugned order of the first respondent dated 01.02.2022 is hereby set aside. There shall be a direction to the first respondent to grant ordinary leave to the detenu for a period of 20 days, ie., from 21.09.2022 at 10.30 a.m. to 10.10.2022 upto 5.30 p.m., without escort, subject to the following conditions:

(a) The detenu shall stay at Harikesavanallur Village, Cheranmahadevi, Tirunelveli District and he shall not leave the place during the period of his stay with his mother;

(b) The detenu shall report before the Mukkoodal Police Station, Tirunelveli District, daily at 5.30 p.m. during the entire period of ordinary leave; and

(c) The detenu shall surrender before the second respondent on 10.10.2022 by 5.30 p.m.

7. This writ petition is allowed in the above terms.

(J.N.B.,J.) (N.A.V.,J.)
16.09.2022

Index : Yes/No

Internet : Yes

RR



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To

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- 1.The Deputy Inspector General of Prison,
Madurai Range,
Madurai.
- 2.The Superintendent
Central Prison
Palayamkottai 627 007.
- 3.The Inspector of Police,
Mukkoodal Police Station,
Tirunelveli District
- 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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