



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P(MD)No.8570 of 2022

Subashini : Petitioner

.vs.

The Superintendent of Prison,
Madurai Central Prison,
Madurai. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus, to call for the records pursuant to the respondent's impugned order in No.5068/50 2/2022, dated 05.04.2022 and quash the same and consequently direct the respondent to consider the representation dated 28.03.2022 for granting Parole for his husband namely Satheeshkumar, (Life Convict 5530) for transferring the land belong to petitioner's husband to petitioner name in S.No.75/3B1, situated at Kothakulam Village, Sivagangai District.

For Petitioner	:Mr.S.Prabha
For Respondents	:Mr.S.Ravi
	Additional Public Prosecutor

O R D E R

R.SUBRAMANIAN, J
AND
N.SATHISH KUMAR, J

Challenge in this writ petition is to the rejection of the petitioner's application for grant of ordinary leave for her husband, who is undergoing life sentence.

2. The claim for Ordinary leave has been rejected on the ground that the petitioner's husband has not completed 3 years of imprisonment, which is the eligibility criteria fixed under the Sub Rule (1) of Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982.



3. The learned counsel appearing for the petitioner would further contend that the authorities have not taken into account the period of incarceration pending trial and in the judgment of this Court in **2014 (2) MLJ (Cr1) 651**, it is held that life convict would be entitled to Ordinary Leave after completion of two years of Life Imprisonment.

4. We are unable to agree with the contention of the learned counsel for the petitioner. The three years period under Rule 22 Sub Rule (1) of the Rules, should be after the sentence and not pending trial. The very wording of the Rule reads as follows:-

"22(1) No prisoner shall be granted ordinary leave unless he has been sentenced by a Court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed [three years] of imprisonment from the date of initial imprisonment."

5. 22(1) of Rules would show that the ordinary leave could be granted to a person, who has been sentenced by Court, which would automatically exclude the period of incarceration served during trial, though the same can be used for set off under Section 428 of the Cr.P.C.

6. As regards the second contention based on the judgment **2014 (2) MLJ (Cr1.) 651**, the said judgment has been delivered with reference to Sub Rule 3 of Rule 22 and that would be for a second spell of leave where the requirement is that the prisoner should have completed two years of imprisonment between first spell and the second spell. We do not think that the said judgment would apply in this case. We do not see any merit in the writ petition. Hence, the writ petition stands dismissed. No costs. However, as pointed out by the authorities themselves, the petitioner would be entitled to renew the application after completion of three years of incarceration.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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W.P(MD)No.8570 of 2022

To

The Superintendent of Prison,
Madurai Central Prison,
Madurai.

ORDER MADE IN
W.P (MD) No.8570 of 2022
28.04.2022

MK/16.05.2022/3P/2C