



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.[MD]No.12555 of 2022

WEB COPY

S.Sujitha Lakshmi : Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to
Home Department and Prisons,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The Additional Director
General of Police [Prisons],
No.1, Gandhi Irvin Road,
Egmore,
Chennai.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned rejection order in No.2337/Tk.2/2022 passed by the third respondent dated 12.04.2022 and to quash the same and further direct the respondents to consider the petitioner's representation dated 28.03.2022 for granting parole / ordinary leave for the period of one month to the petitioner's husband namely Suresh [CT.No.5961/2020].

For Petitioner : Mr.V.Rajiv Rufus

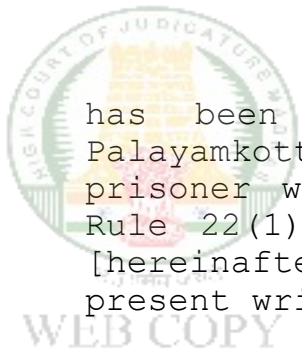
For Respondents : Mr.S.Ravi

Additional Public Prosecutor

O R D E R

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

Seeking 30 days ordinary leave for the convict prisoner Suresh for making arrangements for the education of their children, his wife, the petitioner herein gave an application on 28.03.2022, which



has been rejected by the Superintendent of Central Prison, Palayamkottai, on 12.04.2022, on the ground that the convict prisoner would not be eligible for grant of ordinary leave under Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982 [hereinafter referred to as 'said Rules']. Challenging the same, the present writ petition has been filed.

2.Heard Mr.V.Rajiv Rufus, learned Counsel appearing for the writ petitioner and Mr.S.Ravi, learned Additional Public Prosecutor, who accepts notice on behalf of the respondents.

3.Learned Counsel for the petitioner contended that ordinary leave can be rejected only by the Deputy Inspector General of Prisons and not by the Superintendent of Prisons.

4.In this case, the leave application has been rejected on the ground that the convict prisoner was not eligible for ordinary leave as he had not completed three years of imprisonment as required by Rule 22(1) of the said Rules. The eligibility conditions for availing ordinary leave can be determined only by the Superintendent of Prison, where the prisoner is lodged because the records would be available only there. Only if the convict prisoner satisfies the minimum eligibility conditions, can the application be sent to the Deputy Inspector General of Prisons for taking a decision as to whether leave can be granted or not.

5.Learned Counsel for the petitioner further submitted that on humanitarian grounds, this Court can grant leave.

6.We are afraid that this Court cannot arrogate to itself to the powers of the authorities under the said Rules and grant leave in violation of the statutory Rules.

7.In the result, we do not find any infirmity in the order warranting interference. However, where the convict prisoner would be entitled for emergency leave, the same would be sympathetically considered.

8.With the above observation, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

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/07/2022

Sub Assistant Registrar(CS)

MR



To

- 1.The Principal Secretary to
Government of Tamil Nadu,
Home Department and Prisons,
Fort St. George,
Secretariat,
Chennai - 600 009.
- 2.The Additional Director
General of Police [Prisons],
No.1, Gandhi Irvin Road,
Egmore,
Chennai.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(06.07.2022) 3P 5C