



W.P(MD)No.21924 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.09.2022

CORAM

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

W.P(MD)No.21924 of 2022

A.Vijayakumar

.. Petitioner

Vs.

1.The Inspector General,
Prison Department,
Egmore,
Chennai.

2.The Deputy Inspector General,
Central Prison,
Madurai.

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 09.09.2022 and pass appropriate orders.



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For Petitioner : M/s.G.Karuppasamy Pandian
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

This writ petition has been filed by the son of the detenu for the issue of a Writ of Mandamus directing the respondents to consider the representation made on 09.09.2022, wherein, a request has been made to grant leave to attend the 16th day ceremony of the mother of the detenu.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. The learned counsel for the petitioner submitted that the detenu was earlier granted emergency leave and was allowed to participate in the last rites of his mother. The 16th day ceremony marking the demise of his mother is fixed on 17th and 18th of September, '2022. Hence, a representation was made by the son of the detenu seeking for leave. Since



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the same was not considered, the present writ petition has been filed before this Court.

4. The learned Additional Public Prosecutor submitted that Rule 21 of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'the Rules') was amended through G.O.Ms.No.205 dated 25.04.2022. Clause 'H' was added to Rule 21 and the category of prisoners convicted for heinous offences have been held not to be entitled for ordinary leave under Rule 21 of the Rules. The learned Additional Public Prosecutor submitted that the detenu in the present case was convicted for an offence under NDPS Act and hence he will not be entitled for grant of ordinary leave. In view of the same, the learned Additional Public Prosecutor sought for the dismissal of this petition.

5. We have carefully considered the submissions made on either side.

6. In the present case, the reason that has been assigned seeking for leave of the detenu is that he wants to attend the 16th day ceremony of his mother. Considering the relationship and the importance of the ceremony



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which attaches a lot of sentimental value for a son, we are of the considered opinion that Rules should not come in the way and stop the son from attending the ceremony. Rules are meant to bring consistency while granting leave to the convict prisoners and to keep the movement of the convicts outside the jail under control. But, however, when it comes to the relationship between a mother and a son, the Rule has to be mended and it will be tyrannical to deprive a son from attending death ceremony of his own mother. After all even a prisoner, who has committed a heinous crime is entitled to be treated as a human being and such a right is guaranteed under Article 21 of the Constitution of India.

7. In view of the above discussion, as a special case, we deem it fit to grant leave to the detenu to attend the ceremony of his mother to be held on 17th and 18th of September, '2022.

8. This Writ Petition is disposed of with a direction to the third respondent to grant leave to the detenu, namely, Ayyampillai, to attend to the 16th day ceremony of his mother. The detenu shall be released from the jail on 17.09.2022 at 10.30 a.m. and he shall be brought back to the jail on



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18.09.2022 at 5.30 p.m.. Whatever arrangements were made when the detenu was granted emergency leave to attend the last rites of his mother, shall be followed.

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

Index : Yes/No

Internet : Yes

Note: Order Copy on 16.09.2022
RR

To

- 1.The Inspector General,
Prison Department,
Egmore, Chennai.
- 2.The Deputy Inspector General,
Central Prison,
Madurai.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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