



WP(MD)No.22964 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 30.09.2022

CORAM

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

W.P.(MD)No.22964 of 2022

K.Deivajothi

... Petitioner

/Vs./

1.The Additional Director General of Prison,
Egmore, Chennai - 600 008.

2.The Superintendent,
Central Prison, Madurai.

...Respondents

PRAYER: Petition - filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant parole to the petitioner's brother, Vijayapandian, S/o.Sakkarai aged about 40 years (C.P.No.5860) on Parole for 3 days to perform customary rites to the petitioner's child on 09.10.2022, based on the petitioner's representation dated 24.09.2022.

For Petitioner : Mr.M.Jegadeeshpandian

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor



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ORDER

J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

This writ petition has been filed for a direction to the respondents to grant ordinary leave to the detenu, who is the brother of the petitioner, to perform Ear Piercing Ceremony of her daughter to be held on 09.10.2022.

2. The learned Additional Public Prosecutor, on instructions submitted that the request made by the petitioner has been rejected by the second respondent, through proceedings dated 26.09.2022 on the ground that there is a bar under Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as “the Rules” for the sake of convenience).

3. The learned counsel appearing for the petitioner submitted that the Government has been given the powers under Rule 40 of the Rules to grant leave to the detenu. Hence, the learned counsel appearing for the petitioner sought for a direction from this Court to grant leave to the detenu.



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4. This Court had an occasion to deal with the similar issue in WP(MD)No.22052 of 2022. This Court took into consideration the Rule 35 of the Rules and the earlier Judgment of this Court in **S.Santhosam v. State by Secretary to Government** reported in **2022 (3) CTC 689**. After considering the same, this Court directed the Government to consider the exemption under Rule 40 of the Rules. A similar direction can be issued in the present case also.

5. In view of the above, it is left open to the detenu to make a representation to the Government and it is open to the Government to consider the exemption under Rule 40 of the Rules. Beyond this, no further orders can be passed in this writ petition.

6. This Writ Petition is disposed accordingly. No costs.

(J.N.B.,J.) (N.A.V.,J.)
30.09.2022

Index : Yes/No

Internet : Yes

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Note: Issue Order Copy on 03.10.2022.



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J. NISHA BANU,J.

and

N. ANAND VENKATESH,J.

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To:

- 1.The Additional Director General of Prison,
Egmore, Chennai 600 008.
- 2.The Superintendent,
Central Prison, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
W.P.(MD)No.22964 of 2022

Dated
30.09.2022