



W.P(MD)No.23963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.11.2022

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

W.P(MD)No.23963 of 2022

A.H.Saleena

.. Petitioner/Wife of the
Detenu

Vs.

The State represented by its

1.The Deputy Inspector of General of Prison,
Trichy Zone, Central Prison,
Trichy.

2.The Superintendent,
Trichy Central prison,
Trichy.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents to grant ordinary leave for 40 days without escort to the detenu, A.M.Abdul Hakkim, aged about 39 years, S/o.Abdul Majith, Convict No.22928 confined at Central Prison, Trichy.

For Petitioner :Mr.S.Manoharan
For Respondents :Mr.A.Thiruvadikumar,
Additional Public Prosecutor



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ORDER

WEB COPY (Order of the Court was made by N. ANAND VENKATESH)

M.S.RAMESH,J.
and
N. ANAND VENKATESH,J.

This writ petition has been filed by the wife of the detenu seeking for a direction to the respondents to grant 40 days ordinary leave to her husband, who is confined at Central Prison, Trichy.

2.The second respondent has filed a counter affidavit and paragraph No.4 of the counter affidavit is extracted hereunder:

“4.With regard to the averment contained in the para No. 2. Further, I submit that the above said Life Convict Prisoner No.22948, A.M.Abdul Hakkim @ Gim Hakkim, S/o.Abdul Majeeth is having the case pending in Courts as below:-

Sl.No.	Police Station and Crime No.	Under Section	Court
01	E3 Saravanampatti Police Station Crime No.475/2010	U/s.332 and 353 IPC	Judicial Magistrate No.II, Coimbatore, C.C.No. 1040/2010



02	CBCID Police Station Crime No.2/2014	U/s.395 r/w 397 IPC, 120(B), 170 r/w120(B) IPC	Principal Assistant Sessions Court, Coimbatore, S.C.No.286/2015
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3.Heard Mr.S.Manoharan, learned counsel appearing for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondents.

4.The issue that is involved in the present case is squarely covered by the earlier order passed by this Court in W.P(MD)No.22052 of 2022, dated 23.09.2022 and the relevant paragraphs are extracted hereunder:

“5. The learned Additional Public Prosecutor submitted that Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982, is a complete bar for the detenu and no leave can be granted, when there is a pending trial against the detenu. The learned Additional Public Prosecutor also brought to the notice of this Court a Judgment of the Hon'ble Division Bench of this Court in S.Santhosam v. State by Secretary to Government reported in 2022 (3) CTC 689 in this regard.

6. In the considered view of this Court, this Court cannot grant leave to the detenu by disregarding the rules and



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the earlier Judgment passed by the Division Bench mentioned supra. The only other avenue that is left to the detenu is to make a representation to the Government and it will be left open to the Government to consider exemption under Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982. Beyond this, no further orders can be passed in this Petition.

5.This writ petition is disposed of in terms of the above order.

(M.S.R.,J.) (N.A.V.,J.)
29.11.2022

Intex:Yes/No

Internet:Yes/No

Ns

To

1.The Deputy Inspector of General of Prison,
Trichy Zone, Central Prison,
Trichy.

2.The Superintendent,
Trichy Central prison,
Trichy.



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