



WP(MD)No.26555 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP(MD).No.26555 of 2022

Syed Ali Fathima

: Petitioner

Vs

1.The Inspector General of Prison
O/o.the Inspector General of Prison
Whannels Road
Egmore
Chennai

2.The Deputy Inspector General
O/o the Deputy Inspector General
Peththanaipuram
Arapalayam, Madurai.

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

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records in impugned letter No.3047/Utha2/2022 dated 07.11.2022 issued by the respondent no.2 and quash the same and directing the respondent no.1 to



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grant parole for the period of one month to the petitioner's husband namely Sheik Jinnar Mathar, who is convicted in one murder case and languishing in Palayamkottai Central Jail for the period of 22 years.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

On concurrence given by either side, the main writ petition itself was taken up for final hearing.

2.The subject matter of challenge in this writ petition pertains to the impugned letter in No.3047/Utha2/2022 dated 07.11.2022 issued by the 2nd respondent refusing to grant ordinary leave to the detenu on the representation made by the petitioner.

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

4.The case of the petitioner is that her husband is a life convict and he



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has been undergoing the sentence from the year 1999 onwards, ie., for the past 22 years. The further case of the petitioner is that the mother of the detenu is suffering from serious ailments and she wants the detenu to be with her for the purpose of settling her properties. On this ground, leave was sought for on an earlier occasion and 30 days ordinary leave was granted to the detenu.

5. The petitioner made yet another representation on 23.09.2022 seeking for ordinary leave for a period of 10 days on the ground that the mother of the detenu wants to settle her properties in favour of the detenu. The said representation was rejected by the second respondent through the impugned letter dated 07.11.2022. Aggrieved by the same, the present writ petition has been filed.

6. We have carefully gone through the impugned proceedings of the second respondent. The only reason that has been assigned in the impugned letter is that no effective steps have been taken for settling the property in favour of the detenu and that apart there is a life threat for the detenu and there is a possibility of law and order problem. The second respondent



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arrived at such a conclusion based on the report of the Probation Officer and the local police station.

7. In the considered view of this Court, the detenu has suffered incarceration for nearly 22 years and even on earlier occasions, he was granted leave and there is no complaint against the detenu that he had misused or overstayed the period of leave. That apart, during none of the earlier occasion, any law and order problem had arisen. In view of the same, the rejection of ordinary leave sought for by the petitioner seems to be hyper-technical and without any strong grounds. The effective steps can be taken for preparing a document and registering the same, only if the detenu comes out on leave. Hence, we are inclined to interfere with the impugned rejection letter issued by the second respondent.

8. In the result, the impugned proceedings dated 07.11.2022 issued by the second respondent is hereby set aside. There shall be a direction to the third respondent to grant ordinary leave to the detenu for a period of ten days. It will be left open to the third respondent to impose necessary conditions as per law.



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9. This writ petition is allowed with the above direction.

[M.S.R.,J] [N.A.V.,J]

25.11.2022

Index : Yes / No

Internet : Yes

RR

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4.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

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