



WP(MD)No.27196 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2022

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**W.P(MD)No.27196 of 2022
and
W.M.P(MD)Nos.21332 and 21334 of 2022**

Hairun Nisha

.. Petitioner/Mother of the
Detenu

Vs.

State represented by,

1.The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai-600 009.

2.The Deputy Inspector General of Prison,
Madurai Zone,
Madurai-625 001.

3.The Superintendent,



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Palayamkottai Central Prison,

Palayamkottai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Certirarified Mandamus, to call for the records pertaining to the impugned order bearing No.7974/Tha.Ku.2/2022, dated 11.11.2022, passed by the 2nd respondent and quash the same and consequently direct the respondents to grant ordinary leave for 40 days without escort to the detenu, Naveed Ismail, son of Abdul Kapoor, aged about 34 years, bearing Convict No.2850 at Central Prison, Palayamkottai.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

The mother of the Life Convict Naveed Ismail is the writ petitioner. In S.C.No.81/2011 on the file of Additional District and Sessions Court (Fast Track Court), Ramanathapuram, Navaeed Ismail was found guilty and



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convicted for offences under Section 302 IPC and sentenced to undergo Life Imprisonment with fine of Rs.2000/-. To finalise the marriage of his sister, this petition is filed seeking 40 days leave to the Life Convict. When the petitioner made representation seeking leave, the prison authorities vide proceedings, dated 11.11.2022 declined to grant leave citing pendency of a criminal case in Crime No.7980/2010 pending on the file of Judicial Magistrate No.I, Tiruppur for offence under Sections 147, 148, 149, 364, 396, 302, 201 r/w 149 IPC citing Rule 35 of the Tamilnadu Suspension of Sentence Rules, 1982, the request was rejected. Being aggrieved, this writ petition is filed.

2.Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the State.

3.On 13.12.2022, this Court, on examining the proceedings passed by the Superintendent of Prison, Palayamkottai vide proceedings No. 7974/Tha.Ku.2/2022 dated 11.11.2022 requested the Additional Public Prosecutor for furnish details about the Crime No.1780/2010 pending on the



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file of Judicial Magistrate No.I, Tiruppur.

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4. Today, the particulars furnished by the learned Additional Public Prosecutor indicates that the case in Crime No.7980/2010 registered by the Tiruppur North Police Station was taken up for investigation and final report was filed against eight accused. The son of the petitioner is arrayed as second accused. From the case status, after filing the final report and taken on file in S.C.No.78/2015, charges could not be framed and proceeded further due to the abscondance of the first accused Senthil Kumar @ Senthil. It is also now reported that the first accused was secured recently and charges framed on 03.02.2021. From the records, *prima facie* it appears that the delay of the pending criminal case for major offence under Section 302 IPC is not due to the conduct of this Life Convict.

5. Therefore, this writ petition is disposed of with a direction to the prison authorities to consider the request afresh and pass suitable order, if the pending case is delayed for not owing to the conduct of the detenu. Exemption to Rule 35 of the Tamilnadu Suspension of Sentence Rules,



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1982, may be considered. This exemption shall be under special circumstances, which is explained in the affidavit and in this order. This shall not be cited as precedent in other cases. No Costs. Consequently, connected WMPs are closed.

[G.J.,J.] & [S.M.,J.]
20.12.2022

Index: Yes/No
Internet: Yes/No
PJJ

To

1.The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai-600 009.

2.The Deputy Inspector General of Prison,
Madurai Zone,
Madurai-625 001.

3.The Superintendent,
Palayamkottai Central Prison,
Palayamkottai.



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



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and
SUNDER MOHAN, J.**

PJL

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