



W.P.No.989 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.989 of 2023

Mariyapan

.. Petitioner

Vs.

The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF MANDAMUS directing the respondent to consider the petitioner's representation dated 09.01.2023 and grant leave to the petitioner's son Vadivel, son of Mariyapan, (Convict Prisoner No.4192), Central Prison, Vellore, Vellore District, on emergency leave for 6 days.

For Petitioner : Mr.C.Mohanraj

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



W.P.No.989 of 2023

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

This writ petition has been filed seeking a direction to the respondent to consider the petitioner's representation dated 09.01.2023 and grant leave to the petitioner's son Vadivel, son of Mariyapan, (Convict Prisoner No.4192), Central Prison, Vellore District, on emergency leave for 6 days.

2. The petitioner is the father of Vadivel, (Convict Prisoner No.4192), who has been convicted of an offence under Section 304-A IPC and sentenced to undergo nine months rigorous imprisonment.

3. Pursuant to the above, Vadivel is now undergoing imprisonment in the Central Prison, Vellore. While so, Palaniyammal, mother of Vadivel, died on 06.01.2023 and he was granted one day emergency leave to attend his mother's funeral. Now, this writ petition has been filed for six days emergency leave for performing 16th day ritual for his departed mother.

4. On notice, the learned Additional Public Prosecutor submitted



W.P.No.989 of 2023

that under Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982 (for brevity “the TNSS Rules”), there is no provision for granting emergency leave for the said purpose and therefore, the authorities cannot grant any leave outside the scope of the TNSS Rules.

5. We are in complete agreement with the statement of the learned Additional Public Prosecutor and we are also conscious of the fact that this Court cannot issue directions beyond the purview of the TNSS Rules.

6. However, the learned counsel for the petitioner submitted that the 16th day rites are being performed on the 7th day viz. 12.01.2023 and if the petitioner is permitted to participate in that, it would suffice.

7. Under normal circumstances, we would not have entertained this writ petition, but, for the fact that Vadivel has been convicted of an offence under Section 304-A IPC and the total imprisonment period is only nine months, his appellate and revisional remedy is exhausted.

8. Under such circumstances, on humanitarian grounds, we direct



W.P.No.989 of 2023

the Superintendent of Prison, Central Prison, Vellore, to send Vadivel with escort on 12.01.2023 for performing his mother's 16th day ritual, on payment of escort charges and bring him back to the prison on the same day. We make it clear that this order is passed considering the facts of the present case and the same shall not be cited as a precedent in any other case.

With the above directions, this writ petition stands disposed of. No costs.

[P.N.P., J.] [N.A.V., J.]
11.01.2023

nsd

Note: Issue copy of this today (11.01.2023).



W.P.No.989 of 2023

To

WEB COPY

1.The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P.No.989 of 2023

P.N.PRAKASH, J.
AND
N.ANAND VENKATESH, J.

nsd

W.P.No.989 of 2023

11.01.2023