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W.P.No.5730 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

W.P.No.5730 of 2023

A.Nadhira Banu

.. Petitioner

Vs

1.The Government of Tamil Nadu
rep. By its Secretary to Government,
Home (Prison IV) Department,
Fort St. George, Chennai – 9.

2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai – 8.

3.The Superintendent of Central Prison,
Puzhal – I, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus to call for the records of the second respondent in Letter No.171/172/2023, quash the same and direct the third respondent to grant ordinary leave without escort for 15 days for the petitioner's brother Ibrahim @ Koolai Ibrahim's marriage (Convict Prisoner No.4661).

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For Petitioner : Mr.K.Madhu
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

This order will now dispose of captioned writ petition.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listings on 28.02.2023, 07.03.2023 and 23.03.2023. To be noted, between 07.03.2023 and 23.03.2023 listings, matter was listed on 28.03.2023 and it was re-notified.

3. The aforementioned proceedings have to be read as an integral part and parcel of this order.

4. The scope of the writ petition has been considerably narrowed as the executive arm has now granted 40 days ordinary leave and the only issue is as to whether it should be with escort or without escort. Pursuant to our earlier directive, both sides have



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placed charts before us. We do not propose to go into the minute details of the charts as it comes out broadly that it is not as if the petitioner has not gone on leave without escort on any of the earlier occasions which is more than 25 in number. There are very many occasions that the petitioner has gone on leave without escort. Be that as it may one other tilting factor is learned State Additional Public Prosecutor submitted on instructions that the only concern is the safety and security of the convict prisoner, in other words, it is not the case of the prosecution that there is threat for anyone other than the convict prisoner. In response to this, Mr.Madhu, learned counsel for petitioner on instructions submits that the convict prisoner verily believes that he is not under any such threat and he would go without escort.

5. Learned counsel also submits that the convict prisoner would report before the jurisdictional police station viz., B1 Big Bazaar Police Station. However, learned Prosecutor in response to this, submits that it is desirable to have the following conditions in the case on hand:

(i)The prisoner shall reside at the place specified in



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the leave petition and shall not go beyond the limits of that place;

(ii) The prisoner shall be of good behaviour and shall not commit any offence during his leave;

(iii) The prisoner shall not associate with bad characters or lead a dissolute life;

(iv) The prisoner shall surrender himself to the Superintendent of Prisons at Central Prison-I, Puzhal on expiry of leave or on recall;

(v) The prisoner shall not meet or contact any person other than his family members;

(vi) The prisoner shall not give any interview to any media;

(vii) The prisoner shall not appear or share any information through any kind of social media;

(viii) The prisoner shall not participate in any meeting or function;

(ix) The prisoner is liable to be recalled immediately to prison in case he violates any of the conditions stated above or any of the provisions of the said Rules.



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6. Considering the facts and circumstances of the case on hand, we have no difficulty in saying that the leave will be subject to the aforementioned conditions albeit without escort. Though obvious, on 40 days elapsing, the convict prisoner should surrender before the third respondent i.e., Superintendent of Central Prison-I, Puzhal, Chennai.

7. Captioned writ petition is ordered on the above terms.

(M.S.,J.) (M.N.K.,J.)
29.03.2023

Index : Yes
Neutral Citation : Yes
mmi

To

- 1.The Secretary to Government,
Home (Prison IV) Department,
Fort St. George, Chennai – 9.
- 2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai – 8.
- 3.The Superintendent of Central Prison,
Puzhal – I, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

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and
M.NIRMAL KUMAR, J.,**

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