



W.P.No.8647 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.No.8647 of 2023

P.Santhi
W/o.Pari

.. Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by its Secretary to Government
Home (Prison IV) Department
Fort St.Geroge, Chennai-600 009.
 2. The Additional Director General of Prisons
Thalamuthu Natarajan Maaligai
II Floor, Gandhi Irwin Road
Egmore, Chennai-600 008.
 3. The Superintendent of Prisons
Central Prison-I (Convict)
Puzhal, Chennai-600 066.
- ..Respondents

Petition filed under Article 226 of the Constitution of India praying

Page Nos.1/7



W.P.No.8647 of 2023

writ of Certiorarified Mandamus to call for the records of the 3rd respondent's order in the proceedings எண்.6960/தகு.2/2023 dated 01.03.2023 and quash the same and consequently direct the 3rd respondent to grant ordinary leave 21 days to her brother S.Saravanan, Son of Subramani, who was convict prisoner No.6960 at Central Prison-I, Puzhal, Chennai-600 066.

For Petitioner : Mr.K.Karthik
representing Mr.R.Arunkumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

This order will now dispose of the captioned writ petition.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 21.03.2023 which reads as follows:

'Captioned 'Writ Petition' (hereinafter 'W.P.' for the sake of convenience and clarity) has been filed by the sister of a convict prisoner i.e., S.Saravanan (Convict Prisoner No.6960), now lodged in Central Prison, Puzhal, Chennai, who shall hereinafter be referred to as convict prisoner for the sake of convenience and



W.P.No.8647 of 2023

clarity.

2. *Mr.S.Anandakumar, learned counsel for writ petitioner is before us. It comes to light that the convict prisoner is a physically challenged person, who was convicted and sentenced to 10 years rigorous imprisonment vide S.C. No.306 of 2013 on the file of learned VII Additional Sessions Judge, Chennai in and by judgment dated 05.03.2018. We are informed that the criminal appeal being Crl.A. No.187 of 2018 filed against this conviction and sentence also was dismissed on 25.07.2022 but it may not be necessary to delve into these details any further considering the scope of the captioned writ petition. Nucleus of the captioned writ petition is constituted by representation dated 08.11.2022/09.11.2022 which came to be negatived in and by an 'order dated 01.03.2023 bearing reference No.6960/Tha.Ku.2/2023' made by third respondent (hereinafter 'impugned order' for the sake of convenience and clarity). To be noted, 08.11.2022/09.11.2022 representation was preceded by an earlier representation dated 21.10.2022 but it may not be necessary to be detained by those facts. As regards the impugned order, it is pointed out that the 08.11.2022/09.11.2022 representation was followed up with an earlier writ petition being W.P.No.32683 of 2022.*

3. *Earlier writ petition came to be disposed of by Honourable Predecessor Bench in and by an order dated 20.12.2022 as the prosecution took a stand that the convict*



WP.No.8647 of 2023

prisoner if at all can be granted only 21 days ordinary leave whereas he had sought for 60 days leave. The prosecution also stated that if 21 days leave is sought for, the same will be considered. It is in this context that the Honourable Predecessor Bench disposed of the writ petition permitting the petitioner to make a fresh representation seeking 21 days leave.

4. *It was also pointed out that the impugned order has been made notwithstanding the stated position taken by the prosecution before the Honourable Predecessor Bench pursuant to which W.P.No.32683 of 2022 came to be disposed of on 20.12.2022.*

5. *Reverting to the impugned order, it is submitted that the same is terse and it does not pass muster qua 21 days ordinary leave sought for the convict prisoner primarily on the ground that he had developed mental illness in the course of incarceration and is under the management of professionals in Government Mental Hospital, Kilpauk, Chennai.*

6. *Issue notice. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor accepts notice for all the three respondents and requests for a short accommodation to revert to this Court. Request acceded to.*

7. *List a fortnight hence. List on 05.04.2023.'*

3. Adverting to paragraph No.5 of 21.03.2023 proceedings, it is



WP.No.8647 of 2023

submitted that convict prisoner having developed mental illness in the course of incarceration has not been articulated in the impugned order in the case on hand. However, paragraph No.3 is very significant.

4. We perused the counter and we heard both sides. It comes to light that the probationary officer has recommended the grant of leave sought for, it is only the jurisdictional police which has raised objections stating that there is a possibility of retaliation. This can be doused by granting leave with escort. We are also informed that convict prisoner was granted leave earlier and he availed the leave and returned / surrendered without anything untoward.

5. In the light of the facts and circumstances of case and considering paragraph No.3 of earlier 21.03.2023 proceedings, we grant 21 days leave to the convict prisoner with escort. 21 days from 05.07.2023 till 25.07.2023. The petitioner will surrender to the third respondent on 25.07.2023 by dusk i.e., by 5.30 p.m.



WEB COPY



WP.No.8647 of 2023

M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

mk

6. Captioned Writ Petition is disposed of but the Registry to list the matter under the cause list caption 'FOR REPORTING COMPLIANCE' on 28.07.2023. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

30.06.2023

Index : Yes

Speaking

Neutral Citation : Yes

mk

To

1. Government of Tamil Nadu
Rep. by its Secretary to Government
Home (Prison IV) Department
Fort St.Geroge, Chennai-600 009.
2. The Additional Director General of Prisons
Thalamuthu Natarajan Maaligai
II Floor, Gandhi Irwin Road
Egmore, Chennai-600 008.
3. The Superintendent of Prisons
Central Prison-I (Convict)
Puzhal, Chennai-600 066.
4. The Public Prosecutor
High Court, Madras.

Page Nos.6/7



WEB COPY



W.P.No.8647 of 2023

W.P.No.8647 of 2023