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W.P.No.13727 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.13727 of 2023

Pachayammal
W/o.Krishnan

.. Petitioner

Vs.

1. The Deputy Inspector General of Prisoner
Vellore Range
Vellore-2.

2. The Superintendent of Prison
Central Prison
Vellore-2.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondents to grant 30 days ordinary leave enabling the petitioner's brother Thepori Perumal, S/o.Govindasamy, aged 62 years, Convict No.19892, convict prisoner, Central Prison, Vellore.

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For Petitioner : Ms.S.Nadhiya
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John, Advocate

ORDER

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

Captioned writ petition has been filed by sister of a lifer i.e., a life convict, who is serving life sentence in Central Prison, Vellore having been convicted and sentenced vide Crime No.330 of 1999 on the file of Palacode Police station, Dharmapuri District in S.C.No.160 of 2002 on the file of learned Additional Session's Judge, Dharmapuri.

2. Ms.Nadhiya, learned counsel on record for petitioner submits that the petitioner's brother i.e., 'lifer' who shall hereinafter be referred to as 'convict prisoner' for the sake of convenience and clarity has blemishless prison records and the ground on which leave application is predicated is petitioner's / convict prisoner's 100 years old mother is seriously ill. In other words, leave application is predicated on the ground of serious illness.



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Learned counsel submits that a representation dated 16.04.2023 has been sent to the respondents and that has not evoked a response.

3. Issue notice.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, accepted notice for both the respondents and submits, on instructions, that convict prisoner had last availed ordinary leave of 30 days in July 2022 and therefore there is a holding period of one year for another leave application. Learned Prosecutor draws our attention to Rule 22(3) of 'the Tamil Nadu Suspension of Sentence Rules 1982' [hereinafter 'said Rules' for the sake of convenience and clarity] in this regard.

5. Learned Prosecutor very fairly submits that the convict prisoner would be entitled to emergency leave in the light of Rule 6 of said Rules which provides for emergency leave in cases of serious illness of parents i.e., father / mother.



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6. We carefully considered the facts and circumstances in the light of the aforementioned submissions. We find that there is no dispute about the blemishless prison records of the convict prisoner. We also find that there is no dispute about the serious illness of the petitioner's / convict prisoner's mother. This means that the convict prisoner is entitled to emergency leave under Rule 6 of said Rules. This takes us to Rule 13 of said Rules which talks about the maximum period of emergency leave. The cap is 15 days in a year to be spread over four spells subject to a maximum of 6 days in any one spell. In any event, this is a Rule that would bind Superintendents and Inspectors-General of Prisons. We also noticed Rule 40 of said Rules vide which Executive arm itself can exempt any person from all or any of the provisions of said Rules. Therefore, we find no impediment for this Court in granting emergency leave.

7. Before we write the operative portion of this order, we shall record that we are informed that the convict prisoner was given leave on earlier occasion without escort and we are also informed that the convict prisoner's mother is in Dharmapuri which is about two hours by road from Central



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Prison, Vellore.

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8. In the light of the narrative thus far, the following order is passed:

(a) Convict prisoner Mr.Thepori Perumal, Convict No.19892, who is lodged in Central Prison, Vellore is granted five days emergency leave on the ground of serious illness of his mother;

(b) Aforementioned five days emergency leave will be from 07.06.2023 (Wednesday) to 11.06.2023 (Sunday) both days inclusive;

(c) Convict Prisoner shall comply with all the requirements and prison procedures for availing emergency leave;

(d) Five days emergency leave is without escort;

(e) On 5th day i.e., 11.06.2023 (Sunday), convict prisoner shall surrender by dusk i.e., half past five to the prison authorities in Central Prison, Vellore;



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and
K.GOVINDARAJAN THILAKAVADI, J.,

mk

Captioned Writ Petition is allowed with the aforementioned directives. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
05.06.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
mk

To

1. The Deputy Inspector General of Prisoner
Vellore Range
Vellore-2.
2. The Superintendent of Prison
Central Prison
Vellore-2.
3. The Public Prosecutor
High Court, Madras.

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