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W.P.No.21693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.No.21693 of 2023

Durga Devi

...Petitioner

vs.

The State represented by its,

1. The Deputy Inspector of General of Prison,
Vellore Zone, Thorapadi,
Vellore.

2. The Superintendent,
Cuddalore Central Prison,
Cuddalore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to grant ordinary leave for 40 days without escort to the detenue, Palanisamy, aged about 43 years, S/o. Rajan bearing Convict No.16133 confined at Central prison, Cuddalore.

For Petitioner :: Mr.Dr.S.Manoharan



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For Respondents :: Mr.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by SUNDER MOHAN,J.)

This writ petition is filed seeking for a direction to the respondents to grant ordinary leave for 40 days without escort to the detenue, Palanisamy, aged about 43 years, S/o. Rajan bearing Convict No.16133 confined at Central prison, Cuddalore.

2. The petitioner is the wife of the convict prisoner, who is convicted for the offence under Section 302 r/w 148 and 324 of IPC by the learned Principal Sessions Judge at Coimbatore in S.C.No.303 of 2004 dated 23.06.2005. He was also convicted for the offence under Sections 392, 397 of IPC and sentenced to undergo 7 years imprisonment by the learned Additional District and Sessions Judge, FTC No.III, Coimbatore in S.C.No.23 of 2005 dated 27.07.2005. The petitioner sought for Ordinary Leave, on the ground that her husband had served sentence of imprisonment for nearly 19 years and that he was eligible for 40 days of Ordinary Leave.



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3. The petitioner sought for Ordinary Leave since, their second son aged 4 years had to be admitted in a school and the convict prisoner, as head of the family, has to mobilise funds for the same and for other expenses of the family. The petitioner sent a representation on 03.07.2023 to the prison authorities. The prison authorities rejected the said request, on the ground that since the petitioner was convicted for the offence under Section 392 r/w 397 of IPC and Section 3 of Indian Explosive Substance Act, he was not entitled for Ordinary Leave.

4. The learned Additional Public Prosecutor submitted that though the petitioner was not entitled to Ordinary Leave, he was granted Ordinary Leave by the orders of this Court on several occasions in HCP No.2174 of 2018 dated 12.04.2019 (9 days) ; HCP No.1679 of 2019 dated 16.08.2019 (16 days) ; HCP No.1679 of 2019 dated 05.09.2019 (14 days); HCP No.774 of 2020 dated 17.06.2020 (30 days); HCP No.774 of 2020 dated 16.07.2020 (15 days); and HCP No.1404 of 2020 dated 19.08.2020 (15 days); and that



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the convict prisoner had returned to the prison as per the conditions imposed in the said orders.

5. Having regard to the submission made by the learned counsel for the petitioner, the reason cited by the petitioner for seeking Ordinary Leave and the submissions of the learned Additional Public Prosecutor, this Court in exercise of powers under Article 226 of Constitution of India, is inclined to grant Ordinary Leave for a period from 20.10.2023 to 13.11.2023, on the following terms:

(i)Writ petitioner's husband/detenu Palanisamy, aged about 43 years S/o.Rajan bearing Convict No.16133, now lodged in Central Prison, Cuddalore, is granted 25 days Ordinary Leave from 20.11.2023 10.30.a.m., to 13.11.2023 5.30 p.m.;

(ii)Convict Prisoner shall surrender before the 3rd respondent by dusk i.e., by 5.30pm on 13.11.2023;

(iii)Aforesaid Ordinary Leave is granted without escort as there is no disputation that convict prisoner has gone on



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ordinary leave without escort in the past and nothing untoward

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(iv)Convict prisoner shall appear before Anamalai Police Station, Pollachi, Coimbatore District and sign in appropriate register once in a week i.e. on every Monday at 10.30am during the period of leave;

(v)Convict prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

6. The writ petition stands allowed in the above terms.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
13.10.2023

Note to Registry:

- 1.Issue order copy by 18.10.2023.
- 2.Upload the order copy forthwith.

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S.S.SUNDAR,J.

AND

SUNDER MOHAN,J.

ars/dk

To

1. The Deputy Inspector of General of Prison,
Vellore Zone, Thorapadi,
Vellore.
2. The Superintendent,
Cuddalore Central Prison,
Cuddalore.
3. The Inspector of Police,
Anaimalai Police Station,
Coimbatore District.
4. The Public Prosecutor,
High Court, Madras.

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