



W.P.No.22285 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

W.P.No.22285 of 2023

Anees Unnissha
Petitioner

...

Vs.

- 1.The Secretary to Government,
Department of Law, Courts and Prisons,
Secretariat, Chennai.
- 2.The Director General of Prisons,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Chennai – 8.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Superintendent of Prison,
Central Prison, Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the order dated 03.04.2023 made in No.3315/TK.3/2023 on the file of the Superintendent, Central Prison, Vellore, the fourth respondent herein and quash the same.



W.P.No.22285 of 2023

For Petitioner : Mr.R.Rajan
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed to quash the impugned order dated 03.04.2023 passed by the Superintendent, Central Prison, Vellore rejecting the request of the petitioner to grant for 30 days ordinary leave for her husband.

2. The petitioner is the wife of the convict prisoner – Sathiq Basha (CT No.3315), who has been convicted under the NDPS Act. It is stated that the convict prisoner has completed eight years of his term in prison. The petitioner requested ordinary leave for her husband for the purpose of mobilising funds to admit the convict's mother, who has been diagnosed with cardiac problems, in hospital for taking treatment. It is also stated that the petitioner's elder daughter is studying in college and she requires financial assistance to continue her education. After the impugned order passed by the fourth respondent rejecting the request of the petitioner, the petitioner has made further representation stating that her mother-in-law requires medical attention.



W.P.No.22285 of 2023

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3. Though the representation of the petitioner was rejected by citing Rule 21(h)(3) of Tamil Nadu Suspension of Sentence Rules, 1982, which states that any person convicted under NDPS Act is not eligible for grant of ordinary leave, Section 32-A of NDPS Act does not stand in the way of the authorities to exercise their power to grant parole. However, in exercise of power under Article 226 of the Constitution of India and keeping in line with the decision of Hon'ble Supreme Court in *Dadu alias Tulsidas Vs. State of Maharashtra* reported in (2000) 8 SCC 437, this Court is inclined to grant leave for a period of one month to the convict prisoner as this Court is convinced with the reasons stated by the petitioner in the affidavit filed in support of the petition.

4. Accordingly, we grant 30 days ordinary leave to the convict prisoner without escort subject to the usual conditions that can be imposed by the respondents and this writ petition is ordered on the following terms:

(i) The convict shall be released from the prison at 10.00 a.m. on 20.10.2023 and he shall return back to the prison at 06.00 p.m. on 18.11.2023.

(ii) We make it clear that the day on



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W.P.No.22285 of 2023

which the convict is released from the prison and the day on which he is readmitted will have to be excluded.

(iii) During the aforesaid leave period, the convict prisoner shall report before D3 Ice House Police Station, Chennai daily at 10.30 a.m.

(S.S.S.R., J.) (S.M., J.)
17.10.2023

Index : Yes / No

Neutral Citation : Yes / No

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Note: Issue copy of the order on 19.10.2023

To

- 1.The Secretary to Government,
Department of Law, Courts and Prisons,
Secretariat, Chennai.
- 2.The Director General of Prisons,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Chennai – 8.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Superintendent of Prison,
Central Prison, Vellore.
- 5.The Inspector of Police,
D3 Ice House Police Station, Chennai.
- 6.The Public Prosecutor,
High Court, Madras.

S.S. SUNDAR, J.
and



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W.P.No.22285 of 2023

SUNDER MOHAN, J.

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W.P.No.22285 of 2023

17.10.2023