



Writ Petition No.22892 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

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

Writ Petition No.22892 of 2023

and

W.M.P.No.22374 of 2023

Visalakshi
W/o.P.Nagendran

.. Petitioner

Vs.

- 1.The Additional Director General of Police
and Inspector General of Prison,
Tamil Nadu Prison Department,
Egmore, Chennai - 600 008.
- 2.The Deputy Inspector General of Prison,
Vellore Range,
Tamil Nadu Prison Department,
Vellore - 652 002.
- 3.The Deputy Inspector General of Prison,
Chennai Range,
Tamil Nadu Prison Department,
Egmore, Chennai - 600 008.
- 4.The Superintendent of Prison,
Central Prison, Vellore.



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5. The Superintendent of Prison,
Central Prison-I, Puzhal, Chennai.

.. Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records and quash the same in proceeding dated 26.07.2023 in No.7569/1999/R2/2023 on the file of second respondent and direct the fifth respondent to grant leave for 30 days to the petitioner's husband, namely, P.Nagendran S/o.Ponnusamy, aged about 54 years (serving as life convict No. Life Convict No.OJCT 1999) enabling to make arrangement for his son's marriage.

For Petitioner : Mr.John Sathiyan, Senior Counsel
for Mr.P.Divakar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This Writ Petition has been filed seeking to quash the proceedings of the second respondent dated 26.07.2023 and to direct the fifth respondent to grant ordinary leave for 30 days to the petitioner's husband to conduct his son's marriage.



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2. The petitioner's husband is a life convict, who had undergone imprisonment for more than 24 years. The life convict was originally convicted and sentenced to undergo imprisonment for 10 years in S.C.No.316 of 1998 on the file of V Additional Sessions Court, Chennai, by judgment dated 14.07.1999 for offence u/s.302 r/w 34 IPC. On appeal, this Court enhanced the punishment to life sentence in CrI.A.No.936 of 1999 by judgment dated 17.03.2003. In the year 2015, while the life convict was serving sentence in the prison, another case was registered against him in Vengal Police Station in Crime No.36 of 2015 for alleged offences u/s.147, 148, 120 (B), 307 and 302 IPC. Thereafter, the petitioner was granted leave on medical grounds.

3. The petitioner filed W.P.No.21833 of 2023 seeking a direction to the fifth respondent to consider the petitioner's representation dated 20.06.2023 and to grant one month leave to her husband. The said writ petition was disposed by order dated 24.07.2023 recording the submission of learned Additional Public Prosecutor that the petitioner's representation would be disposed of as expeditiously as possible and also granting liberty



to the petitioner to assail the order if it is not to the satisfaction of the petitioner or the life convict. The representation of the petitioner was rejected *vide* impugned order. Hence, the petitioner has filed the present writ petition seeking for the aforesaid relief.

4. Heard Mr.John Sathiyan, learned Senior Counsel appearing for petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for respondents.

5. It is seen from the impugned order that the Probation Officer, based on his assessment over the conduct of the life convict, has recommended for grant of ordinary leave to the life convict for a period of one month. However, the Inspector of Police, P3 Vysarpadi Police Station, in his report, has stated that there is a life threat to the convict prisoner and since the life convict was involved in murder and kidnapping cases, there is likelihood of breach of peace, if he is granted ordinary leave. Though the petitioner has spent more than 24 years in jail and is found eligible for getting 40 days ordinary leave, the representation of the petitioner was rejected mainly on



the adverse remarks of the Inspector of Police, P3 Vysarpadi Police Station, and considering the involvement of the life convict in prison offences.

6. This Court had earlier granted emergency leave to the life convict with escort.

7. Since the representation of the petitioner was rejected primarily based on the report of the Inspector of Police, P3 Vysarpadi Police Station, this Court asked learned Additional Public Prosecutor whether he has serious objection to grant ordinary leave to the life convict with escort.

8. Learned Additional Public Prosecutor, on instructions, submitted that the respondents may not have serious objection if the petitioner bears the cost of escort.

9. Learned Senior Counsel appearing for petitioner has undertaken that the petitioner shall bear the escort expenses.



10. In the aforesaid circumstance, this Court is of the view that the life convict shall be granted ordinary leave for a period of 30 days subject to certain conditions.

11. Accordingly, the leave is granted on the following terms:

- (i) The petitioner shall file an affidavit of undertaking within two (2) days stating that her family will bear the cost of escort as required by the department;
- (ii) The life convict *viz.*, P.Nagendran, bearing Convict No.OJCT 1999, shall be released from the prison at 10.00 a.m., on 10.11.2023;
- (iii) The life convict shall return back to the prison at 7.00 p.m., on 09.12.2023;
- (iv) As the life convict is presently confined at Central Prison, Vellore, the fourth respondent is directed to provide escort to the life convict from the Central Prison at the time he leaves the prison and till such time he is taken back to the prison.
- (v) It is clarified that the cost involved in providing escort shall be borne by the petitioner.



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In the result, this writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J] [S.M., J]
08.11.2023

Note : Issue order copy by 09.11.2023

Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

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To

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- 6.The Public Prosecutor,
High Court, Madras.



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