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W.P.No.26199 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM :

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

W.P.No.26199 of 2023

Sudha Velmani .. Petitioner

v.

The State rep. by its

1. The Secretary to Government of Tamil Nadu,
Home Department,
Fort. St.George, Chennai – 600 009.
2. The Deputy Inspector of General of Prison,
Trichy Zone, Trichy Central Prison,
Trichy.
3. The Superintendent,
Trichy Central Prison,
Trichy.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order bearing No.13848/Tha.Ku4/2023 dated 18.07.2023, passed by the 3rd respondent and quash the same and



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consecutively direct the 3rd respondent to grant 6 days of emergency leave and direct the 1st and 2nd respondents to grant 40 days of ordinary leave without escort to the detenu, Sakthi @Sakthivel, S/o. Palanisamy, aged about 42 years bearing Convict No.23598 at Central Prison, Trichy.

For Petitioner :: Mr.S.Manoharan

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 challenging the order of third respondent dated 18.07.2023, rejecting the emergency leave application submitted by the petitioner/sister of the convict prisoner-Sakthi @ Sakthivel (Convict No.23598), who is in custody at Central Prison, Trichy, since 23.06.2005. He was convicted and sentenced to life imprisonment for the offence under Sections 302 r/w 148, 149 and 324 IPC and Section 3 of the Explosive Substances Act.



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2. The petitioner had sent a representation to the respondents seeking ordinary leave for her brother/convict prisoner, for the purpose of visiting his mother, who was taken to hospital due to depression and other physical ailments. It is the case of the petitioner that the doctor of the petitioner's mother had advised her that their mother requires continuous treatment viz., Electro Convulsive Therapy. Since the petitioner and her sister got married and lived separately, it is stated that there is no one to take care of the mother and it is in this context, the petitioner submitted a representation. It appears that the representation of the petitioner was rejected by the 3rd respondent vide impugned order dated 18.07.2023 for the reason that since the convict prisoner is facing trial in another criminal case and that as per Rule 35 of Tamil Nadu Prison Manual, Volume-III, he is not eligible for either ordinary leave or emergency leave.

3. The learned counsel for the petitioner submitted that in view of the peculiar situation faced by the petitioner, the convict prisoner may be granted ordinary leave for a period of two weeks so that he could take care of his ailing mother.



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4. The learned Additional Public Prosecutor submitted that apart from the fact that the convict prisoner is not entitled to either ordinary leave or emergency leave, as per Rule 35 of Tamil Nadu Prison Manual, on an earlier occasion, when the convict prisoner was granted leave, he had involved in a offence of murder and a case was registered against the convict prisoner in Cr.No.101 of 2019, under Section 365 r/w 302 of IPC.

5. This Court on perusal of the records finds that the convict prisoner was earlier granted leave on several occasions without escort. But in view of the request made by the petitioner, that the convict prisoner's mother is suffering from illness, we are inclined to grant 20 days ordinary leave. However, in view of the past conduct of the convict prisoner namely his involvement in a crime when he was released on leave, the leave cannot be granted without minimum escort. Hence, the leave is granted on the following terms.

(i) The convict prisoner viz., Sakthi @ Sakthivel, S/o.Palanisamy, aged about 42 years bearing Convict No.23598, shall be released from the



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prison at 10.00 a.m., on 10.11.2023;

WEB COPY (ii) The convict prisoner shall return back to the prison at 7.00 p.m.,
on 30.11.2023.

(iii) The third respondent is directed to provide minimum escort to the convict from the Central Prison at the time he leaves the prison and till such time he is taken back to the prison.

(iv) It is clarified that the cost involved in providing escort shall be borne by the petitioner.

6. The writ petition stands allowed.

(S.S.S.R.,J.) (S.M.,J.)
31.10.2023

Index : yes/no

Neutral citation : yes/no

Note to office:

1. Issue copy by 07.11.2023
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S.S.SUNDAR,J.

AND

SUNDER MOHAN,J.

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To

1. The Secretary to Government of Tamil Nadu,
Home Department, Fort. St.George,
Chennai – 600 009.
2. The Deputy Inspector of General of Prison,
Trichy Zone, Trichy Central Prison, Trichy.
3. The Superintendent,
Trichy Central Prison, Trichy.
4. The Public Prosecutor,
High Court, Madras.

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