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W.P.No.25494 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.25494 of 2023

Selvi.Archana

D/o Thambu @ Karthik

..

Petitioner

v.

1. State of Tamil Nadu rep.by its
Secretary to Government
Home (Prison) Department
Secretariat, Chennai 600 009
2. The Additional Director General of Prison
No.1, Gandhi Irwin Salai
Egmore, Chennai 600 008
3. The Deputy Inspector General of Prisons
Vellore Range, Ramset Nagar
Vellore 632 002
4. The Superintendent of Prison
Central Prison, Cuddalore
Cuddalore District



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5. The Inspector of Police
Auroville Police Station
Villupuram District
Cr.No.310 of 2003

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 4th respondent in order No.12138/Tha.Ku.2/2023 dated 31.07.2023, quash the same and direct the 3rd respondent to grant 30 days emergency leave (parole) to the petitioner's father Thambu @ Karthick (Male/44 years) (Prisoner No.14616) who is confined in Central Prison, Cuddalore to attend and make financial arrangements for the treatment of his mother who is critically suffering from fourth stage cancer and also for arranging financial assistance for the education of his daughters.

For Petitioner :: Mr.V.Elangovan

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner is the daughter of the convict prisoner, namely, Thambu @ Karthick (Prisoner No.14616), who was convicted for the offence under Sections 147, 148, 452 & 326 of IPC and sentenced to undergo rigorous imprisonment for one year for the offence under Section 147 of IPC; to undergo rigorous imprisonment for two years for the offence



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under Section 148 of IPC; to undergo rigorous imprisonment for five years for the offence under Section 452 of IPC and to undergo rigorous imprisonment for ten years for the offence under Section 326 of IPC, ordered to run concurrently, vide the judgment of the learned Additional District & Sessions Judge, Fast Track Court No.1, Tindivanam dated 16.03.2012 passed in S.C.No.7 of 2012. On the ground that the petitioner's grandmother, who is the mother of the convict prisoner, is suffering from breast cancer since 2012 and the family had no financial assistance towards medical expenses for the treatment of her grandmother, she made a representation on 24.03.2023 seeking 30 days ordinary leave. However, the fourth respondent, by the impugned order dated 31.07.2023, has rejected the petitioner's representation, citing a letter dated 27.07.2023 of the third respondent. Therefore, the petitioner is before this Court.

2. The learned Additional Public Prosecutor, on instructions, submitted that the conduct of the convict prisoner in threatening the other persons and making them to do menial jobs for the petitioner, was taken note of by the jail authorities while rejecting the petitioner's request. The



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learned Additional Public Prosecutor further submitted that the convict prisoner was deprived of his visitation rights for a period of one month for such conduct.

3. The learned counsel appearing for the petitioner has also not disputed the said submission of the learned Additional Public Prosecutor before us.

4. However, taking note of the facts and circumstances of the case, this Court is of the view that the petitioner's request has to be positively considered, as the petitioner's grandmother and the convict's mother has to take treatment for breast cancer, as the petitioner is dependent upon her father, being the head of the family, to mobilize funds for the medical expenses. Therefore, the impugned order is set aside and the petitioner's father, namely, Thambu @ Karthick (Prisoner No.14616), who is confined in Central Prison, Cuddalore, is granted 30 days ordinary leave without escort. The leave shall commence from 18.10.2023 10.30 a.m., and the convict prisoner shall surrender before the fourth respondent by 5.30 p.m.,



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on 16.11.2023. During the period of leave, the convict prisoner shall also report before Auroville Police Station, Villupuram District once in a week at 10.30 a.m., and he shall not indulge in any other activities. It is made clear that the conduct of the convict prisoner inside the prison will also be taken note of when his application for ordinary leave is considered in future. The writ petition is ordered accordingly.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

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SS

To

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Chennai 600 009
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4. The Superintendent of Prison
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5. The Public Prosecutor
High Court, Madras



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