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W.P.No.25549 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

W.P.NO.25549 OF 2023

M.Rajeshwari

.. Petitioner

VS.

The State represented by its

1.The Secretary to Government of Tamil Nadu
Department of Home,
Fort St. George, Chennai – 600 009.

2.The Deputy Inspector General of Prison
Madurai Range,
Madurai – 625 001.

3.The Superintendent
Central Prison
Palayamkottai – 627 007.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus directing the respondents to extend the leave for two months without escort from 01.09.2023 to the detenu Satishkumar S/o. Ponmani, aged about 36 years, life Convict No.5247, detained at Central Prison, Palayamkottai.



W.P.No.25549 of 2023

For Petitioner : Dr.S.Manoharan

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

ORDER

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

This order will now dispose of the captioned 'Writ Petition' [hereinafter 'WP' for the sake of convenience, clarity and brevity].

2.Captioned writ petition pertains to a plea of two months leave without escort for writ petitioner's spouse one Thiru. Satishkumar (son of Thiru. Ponmani) aged 36 years, a prison inmate {Life Convict (Convict No.5247)} an inmate qua Central Prison, Palayamkottai ('writ petitioner's spouse' shall hereinafter be referred to as 'prison inmate' for the sake of convenience and clarity).

3.Prison inmate was granted 28 days leave by the second respondent. Thereafter, the matter travelled to this Court for further leave and this Court made an order dated 28.07.2023 in W.P.No.22492 of 2023 and a scanned reproduction of the same is as follows:



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W.P.No.25549 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.No.22492 of 2023

M.Rajeshwari

..Petitioner/Wife of the detenue

Vs

The State represented by its

1.The Secretary to Government of Tamil Nadu,
Department of Home, Fort St. George,
Chennai - 9.

2.The Deputy Inspector General of Prison,
Madurai Range,
Madurai - 625 001.

3.The Superintendent,
Central Prison, Palayamkottai - 627 007.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying
for issuance of a writ of mandamus directing the respondents to grant
leave for three months without escort from 28.07.2023 to the detenu
Satishkumar, S/o.Ponmani, aged about 36 years, life Convict No.5247,
detained at Central Prison, Palayamkottai.

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W.P.No.25549 of 2023

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For Petitioner : Dr.S.Manoharan
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This order will now dispose of the captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity and convenience).

2. Short facts are that the writ petitioner's spouse one Satishkumar, S/o.Ponmani, aged 36 years is a lifer (Convict No.5247) detained in Central Prison, Palayamkottai; that the convict prisoner was granted 28 days leave without escort from 01.07.2023 to 28.07.2023 with a condition to surrender back on 29.07.2023 at 05.00 p.m; that this 28 days leave was granted by the second respondent; that the petitioner is in advanced stage of pregnancy and presence of her spouse by her side is necessary owing to certain medical complications and also to take care of convict prisoner's mother (writ petitioner's mother-in-law); that the convict prisoner is necessary for mobilising funds also; that these are the reasons that weighed with the second respondent in granting 28 days leave; that the captioned WP has been filed in this Court on 26.07.2023 seeking further leave from 29.07.2023.



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3. Issue notice.

4. Mr.A.Gokulakrishnan, learned State Additional Public Prosecutor accepts notice for all the three respondents.

5. Owing to the limited scope of captioned WP, main writ petition is taken up in the Admission Board with the consent of both sides.

6. Learned Prosecutor submits that the convict prisoner has already availed 28 days leave.

7. We carefully considered the submission made on both sides. We are informed that the convict prisoner has not breached any of the conditions on which leave was granted, that the conduct of the convict prisoner while on leave has been blemishless and there is no dispute or contestation on this. We are also informed that there is no dispute or contestation regarding the advanced stage of pregnancy or ill health/complications qua convict prisoner's spouse's health (writ petitioner) and the convict prisoner's mother's ill health.

8. We find that there is no serious impediment as regards grant of leave qua Tamil Nadu Suspension of Sentence Rules, 1982.

9. In the light of the narrative, discussion and dispositive reasoning, the convict prisoner is granted 33 days leave from 29.07.2023

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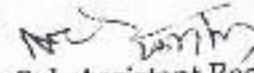
subject to the condition that the convict prisoner shall continue his blemishless conduct while on leave and also sign in Thoothukudi South Police Station daily. Any other conditions imposed by the second respondent while granting 28 days leave will continue to operate.

10. Though obvious we make it clear that convict prisoner need not surrender tomorrow (29.07.2023) but shall surrender before the jail authorities in Central Prison, Palayamkottai on 01.09.2023 by dusk i.e., by 05.30 p.m.

11. Captioned WP disposed of in the aforesaid manner with the aforementioned directives/conditions.

Sd/-
Assistant Registrar(CS IX)

//True Copy//


Sub Assistant Registrar

mmi

To

- 1.The Secretary to Government of Tamil Nadu,
Department of Home, Fort St. George,
Chennai - 9.
- 2.The Deputy Inspector General of Prison,
Madurai Range, Madurai - 625 001.
- 3.The Superintendent,
Central Prison,
Palayamkottai - 627 007.





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4.Today, Dr.S.Manoharan, learned counsel for writ petitioner

has placed before us a Certificate signed by a Medical Doctor on

09.09.2023 and a scanned reproduction of the same is as follows:



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Ph : 0461 - 2376274

VINO HOSPITAL

4/131, Caldwell Colony, Tuficorin - 628 008.

To whom it may

There is to inform you that the defendant
26/10/2023 who Mr. Subash Kumar is expected
Defendant arrived 13/10/2023, from. Hence
his presence is required by the court and he
expected defendant any time


DR. S.R. RAMESH
JUDGE
4/131, CALDWELL COLONY, TUFICORIN
TAMILNADU - 628 008.
MOB: 98439271, PH: 2376274



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5.Learned counsel adverting to the aforementioned Certificate submits the expected date of delivery (to be noted, writ petitioner is an expectant mother) is 13.10.2023.

6.Issue notice.

7.Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for all respondents.

8.Learned Prosecutor pointed out that the expected date of delivery is only 13.10.2023 and therefore, this may not be a case of imminence.

9.In response to above submission of learned Prosecutor, learned counsel for petitioner submitted that other than the aged mother, there is no one to take care of the writ petitioner and therefore, it would be ideal if the writ petitioner's spouse is physically present with the writ petitioner for a fortnight before and after the delivery.



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10.It is made clear that earlier order dated 28.07.2023 in W.P.No.22492 of 2023 shall now be read as an integral part and parcel of this order. The earlier order contains all essential facts that are imperative for appreciating this order and therefore, we are not setting out the same here again.

11.We find that nothing untoward had happened in the earlier spell of leave and we are informed that the convict prisoner is duly complying with the conditions imposed earlier. We also find that the conduct of the prison inmate while in incarceration has been blemishless and the prison inmate has not come to the adverse notice of the prison authorities. In our considered view, this means that there is enough reason to believe that the prison inmate is gravitating towards reformation. Therefore, we deem it appropriate to say that the prison inmate shall now be given one calender month leave i.e., from 10.30 am on 01.10.2023 to 05.30 p.m. on 31.10.2023.



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12.The prison inmate shall surrender before the third respondent on 01.11.2023 (Wednesday) by dusk i.e., by 05.30 p.m.

13.All the conditions for leave which we have put in place vide our earlier order dated 28.07.2023 in W.P.No.22492 of 2023 including the conditions put in place by the second respondent for grant of 28 days leave will continue to operate in the ensuing one month leave period also.

14.Captioned writ petition is disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S., J.)

(R.S.V., J.)

15.09.2023

Index : Yes

Neutral Citation : Yes

Speaking

Note : Upload forthwith

TK



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To

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1. The Secretary to Government of Tamil Nadu
Department of Home,
Fort St. George,
Chennai – 600 009.
2. The Deputy Inspector General of Prison
Madurai Range,
Madurai – 625 001.
3. The Superintendent
Central Prison
Palayamkottai – 627 007.
4. The Public Prosecutor
High Court, Madras.



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M.SUNDAR, J.
AND
R.SAKTHIVEL, J.

TK

W.P.NO.25549 OF 2023

15.09.2023