



WEB COPY



W.P.No.26953 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

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

W.P.No.26953 of 2022
and W.M.P. No.26162 of 2022

Lavanya

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. By its Secretary to Government,
Home (Prison IV) Department,
Fort St.George, Chennai – 09.

2.The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai – 8.

3.The Superintendent of Central Prison,
Vellore – 2.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records of the 3rd respondent in his proceedings dated 26.09.2002 made in No.15515/Tha.Ku.3/2022 and quash the same and consequently direct the respondents to grant 30 days leave to the petitioner's husband / detenu namely, V.Senthil Kumar, Life Convict No.24027, detained at Central Prison, Vellore, without police escort on the basis of petitioner's representation dated 20.09.2022.



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For Petitioner : Mr.D.Krishnamoorthy
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.**)

Challenging the order of the third respondent dated 26.09.2002 made in No.15515/Tha.Ku.3/2022 and for a consequential direction to the respondents to grant 30 days leave to the petitioner's husband V.Senthil Kumar, Life Convict No.24027, detained at Central Prison, Vellore, without police escort on the basis of petitioner's representation dated 20.09.2022, the present writ petition has been filed.

2. Learned counsel appearing for the petitioner submitted that the petitioner/wife of the convict prisoner gave a representation dated 20.09.2022 to the respondents seeking 30 days leave for her husband on account of the ear boring ceremony which is scheduled to be held on 28.10.2022. However, vide impugned order dated 26.09.2022, the third respondent rejected the representation of the petitioner stating that the convict prisoner was convicted for the offence under Section 392 IPC and therefore he is not eligible for grant of ordinary leave as per Rule 21(b) of Tamil Nadu Suspension



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of Sentence Rules, 1982. Learned counsel further submits that the petitioner is otherwise entitled to ordinary leave and the convict prisoner has been granted leave on earlier occasions by this Court. Learned counsel submitted that the petitioner is suffering from illness and that she requires the assistance of the convict prisoner for further treatment and to take care of the family.

3. Learned Additional Public Prosecutor also confirms that the convict prisoner has been granted ordinary leave on the earlier occasions without escort.

4. In view of the multiple reasons now presented by the petitioner, this Court is inclined to consider the request of the petitioner by exercising its discretionary power. The convict prisoner in this case has already undergone sentence for a period of more than five and a half years. This Court has earlier granted ordinary leave and the cause appears to be genuine. There is no adverse report as against the convict prisoner either by the Probation Officer or by the police.

5. In these circumstances, having regard to the request of the petitioner and there is no material to suspect the bonafide of the



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petitioner's request, this Court is inclined to grant ordinary leave for the convict prisoner without escort for a period of 21 days.

6. Accordingly, we grant 21 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 prisoner shall be released from the prison at 10.00 a.m. on 11.11.2023 and he shall return back to the prison at 06.00 p.m. on 01.12.2023;

(ii) We make it clear that the day on which the convict prisoner 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 Bagayam Police Station, Vellore twice a week i.e., on every Monday and Friday at 10.30 a.m.

Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (S.M., J.)
09.11.2023

Index : Yes / No
Neutral Citation : Yes / No
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Note: Issue copy of the order on 10.11.2023



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