



WEB COPY



W.P.No.28559 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

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

W.P.No.28559 of 2023

Mrs.K.M.Mehabooba Jailani
W/o.Mohamed Ali

... Petitioner

Vs.

1.The State rep. By its
Home Secretary (Prison)
Secretariat, Fort St.George, Chennai – 600 009

2.The Superintendent of Prison,
Puzhal Central Prison-I
Thiruvallur District – 600 066

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus directing the respondents calling for the records in No.6663/த.கு2/2023 dated 21.07.2023 passed by the second respondent and direct the second respondent to grant 15 days leave without escort to the husband of the petitioner Mr.M.Mohamed Ali, son of Muhamed Yunus, now confined in Puzhal Central Prison I.

For Petitioner : Mr.M.Mohamed Saifulla

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



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ORDER

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

This writ petition is filed to quash the impugned order dated 21.07.2023 passed by the Superintendent of Prison, Central Prison, Puzhal I rejecting the request of the petitioner to grant for 15 days ordinary leave for her husband.

2. The petitioner has sought for 15 days ordinary leave on the ground that the convict prisoner is in custody since 2019, that they have a son studying 10th Standard and that she is unable to take care of his educational expenses in the absence of the convict prisoner. The petitioner has further stated that she is suffering from serious abnormal uterine bleeding and she is advised to undergo surgery for the same which could not be done in the absence of the convict prisoner.

3. The representation sent by the petitioner was rejected by the Government stating that the convict prisoner has been convicted under the NDPS Act and therefore, he is not entitled to ordinary leave in terms of Section 32(A) of the NDPS Act read with Rule 21(h)(3) of Tamil Nadu Suspension of Sentence Rules, 1982.

4. This Court had considered the very question in



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W.P.No.22285 of 2023 and based on the judgment of Hon'ble Supreme Court in ***Dadu alias Tulsidas Vs. State of Maharashtra*** reported in (2000) 8 SCC 437, granted ordinary leave to the convict prisoner therein. In view of the same, this Court is inclined to grant 15 days ordinary leave to the convict prisoner as this Court is convinced with the reasons stated by the petitioner in the affidavit filed in support of the petition.

5. Accordingly, we grant 15 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 shall be released from the prison at 10.00 a.m. on 06.11.2023 and he shall return back to the prison at 06.00 p.m. on 20.11.2023.

(ii) We make it clear that the day on which the convict 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 Muthiyalpet Police Station, Chennai twice a week on Monday and Friday at 10.30am.



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(S.S.S.R., J.) (S.M., J.)
30.10.2023

Index : Yes / No

Neutral Citation : Yes / No

gpa

Note: Issue copy of the order on 03.11.2023

To

- 1.The Home Secretary (Prison)
Secretariat, Fort St.George, Chennai – 600 009
- 2.The Superintendent of Prison,
Puzhal Central Prison-I
Thiruvallur District – 600 066
- 3.The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

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