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W.P.No.29461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM :

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

W.P.No.29461 of 2023

Kuppammal
W/o Valliyappan .. Petitioner

v.

1. State by: The Additional
Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai 600 009

2. The Director General of Police/
Inspector General of Prisons and
Correctional Service
Whannels Road
Egmore
Chennai 600 008

3. The Superintendent of Prison
Central Prison
Salem-7 .. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in the order dated 12.09.2023 bearing No.19215/tha.ku.3/2023 passed by respondent no.3 and quashing the same and directing the respondent no.1 to grant 40 days ordinary leave and release the petitioner's son namely Gopi, Son of Valliyappan, aged 50 years, Ct.No.8976, Life Convict, now confined in Central Prison, Salem.

For Petitioner :: Mrs.S.Nadhiya

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

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed by the mother of the life convict prisoner seeking to quash the impugned order passed by the third respondent dated 12.09.2023 and to direct the first respondent to grant 40 days ordinary leave and to release the petitioner's son, namely, Gopi, Son of Valliyappan, aged 50 years, Convict No.8976, Life Convict, now confined in Central Prison, Salem.

2. The learned counsel appearing for petitioner states that the impugned order has been passed by the Jail Superintendent, who is not



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competent to pass the order. It is the case of the petitioner that she is 81 year old woman and due to age and other health issues, she needs medical care.

It is also stated by the petitioner that her doctor had advised her to undergo a critical surgery, for which she needs money for medical expenses. It is in these circumstances, the petitioner's wish is to settle her properties in the presence of everyone in the family and to get the help and assistance from her son during her medical treatment. But the application seeking 40 days ordinary leave has been rejected by the third respondent, who is not competent to pass the order. Therefore, she has filed the writ petition seeking the aforementioned relief.

3. The learned Additional Public Prosecutor appearing for the respondents has no serious quarrel as to the position that the order has been passed by the third respondent, even though he is not competent to pass the order, when the representation is given to the Government. The learned Additional Public Prosecutor also has no serious objection for us to consider the request of the petitioner. In these circumstances, this Court, on examination of facts, finds that it would be appropriate to grant leave,



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dehors the rule position, as the petitioner being 81 year old mother of the life convict prisoner, who is in jail for nearly 30 years, requires his son's help and assistance during her medical treatment. It is also admitted that a similar request was considered earlier and the petitioner's son was granted leave for 40 days from 02.01.2023 to 12.02.2023 and no adverse remarks against the life convict have been written as per the order. Taking note of the facts and circumstances of the case and the fact that the petitioner requires the assistance of her son at the age of 81 years, this Court, exercising its Constitutional powers, is inclined to grant 30 days ordinary leave to the son of the petitioner, on the following terms:-

- (i) Impugned order passed by the third respondent is set aside;
- (ii) Writ petitioner's son Mr.Gopi, Son of Valliyappan (CT.No.8976), now lodged in Central Prison, Salem is granted 30 days ordinary leave from 16.10.2023 10.30 a.m., to 15.11.2023 5.30 p.m.;
- (iii) Convict Prisoner shall surrender before third respondent by dusk i.e., by 5.30 p.m., on 15.11.2023;
- (iv) Aforementioned ordinary leave is granted without escort as there is no dispute that convict prisoner has gone on ordinary leave



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without escort in the past and nothing untoward has happened;

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(v) Convict prisoner shall appear before C-3, Manimangalam Police Station, Chennai and sign in appropriate register once in a week at 10.30 a.m., during the period of leave;

(vi) Convict prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

The writ petition stands allowed in the above terms. There shall be no order as to costs.

Index : yes/no

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

(S.M.,J.)

Neutral citation : yes/no

11.10.2023

SS

Note: Upload the order forthwith

To

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Home, Prohibition and Excise Department
Secretariat
Chennai 600 009



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4. The Public Prosecutor
High Court, Madras



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AND

SUNDER MOHAN,J.

SS

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