



W.P.No.34759 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

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Bhuvaneshvari
W/o.Nagarajan

... Petitioner

-VS-

The State rep. by

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

2.The Director Inspector General of Prison
Coimbatore Range,
Coimbatore Central Prison,
Coimbatore – 641 018.

3. The Superintendent of Police
Salem Central Prison
Salem – 636 007.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to grant ordinary leave for 40 days to the petitioner's husband, the detenu Nagarajan, S/o.Mariappan, aged about 56 years, Convict No.8161 detained at Central Prison, Salem.

For Petitioner : Dr.S.Manoharan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Captioned writ petition has been filed with a prayer to Mandamus the respondents qua a premature release plea of one Mr.Nagaraj [son of Mr.Mariappan], a life convict [Convict No.8161] now lodged in Central Prison, Salem.

2.Dr.S.Manoharan, learned counsel for writ petitioner is before us and the learned counsel submits that representation has been made on



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20.10.2022 itself. Learned counsel for writ petitioner submits that the writ petitioner has served 20 years of sentence.

3.Mr.R.Muniyapparaj, learned Additional Public Prosecutor submits that the writ petitioner's plea has been considered and negated by an order made by the third respondent signed on 19.01.2023 bearing reference எண்1359/தகு3/2023.

4.The learned counsel for writ petitioner drew our attention to Rule 22 of Tamil Nadu Suspension of Sentence Rules, 1982 and submitted that the convict prisoner is entitled to ordinary leave on serving three years. It was also highlighted that this has also been mentioned in the representation dated 20.10.2022. We deem it appropriate to not to express any view or opinion on this submission as we are of the view that it would be a proper course to leave it to the writ petitioner to file a separate writ in the nature of writ of Certiorari or Certiorarified Mandamus [if so desired and if so advised] assailing the aforesaid order of third respondent rejecting the plea for leave. If such a course is adopted, all questions are left open, all rights



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and contentions of the detenu/writ petitioner including the contentions raised in the captioned writ petition are left open for being canvassed in such a petition.

5. Captioned writ petition is disposed of as closed preserving the rights and contentions of the detenu/writ petitioner in the aforesaid manner. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
25.01.2023

Index: Yes/No
Neutral Citation : Yes/No
cse

To

1. The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort. St. George, Chennai – 600 009
2. The Director Inspector General of Prison
Coimbatore Range,
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Coimbatore – 641 018.
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M.NIRMAL KUMAR, J.

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