



W.P.(MD)No.6156 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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M.Mariaselvam

... Petitioner / Mother of the detenue

Vs.

The State represented by its,

1.The Deputy Inspector General of Prison,
Madurai Zone, (Central Prison),
Madurai-625 001.

2.The Superintendent,
Central Prison Palayamkottai,
Palayamkottai-627 002.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to take appropriate action on the representation sent by the petitioner on 24.01.2023 and subsequently, grant 40 days of ordinary leave without escort to the petitioner's son, Antony, Convict No.4450 detained in Palayamkottai Prison.



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For Petitioner : Mr.R.Narayanan

For Respondents : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

This Writ Petition is filed for a direction to the respondents to take appropriate action on the representation sent by the petitioner on 24.01.2023 and subsequently, grant 40 days ordinary leave without escort to the petitioner's son, namely, Antony, Convict No.4450 detained in Palayamkottai Prison.

2.Though 40 days ordinary leave has been sought for by the petitioner for his son, namely, Antony, considering the said request, during the pendency of this Writ Petition, the 2nd respondent has passed an order dated 23.03.2023, which has been produced by the learned Additional Public Prosecutor for the respondents before this Court, under which 21 days ordinary leave has been granted to the convict ie., son of the petitioner with some conditions along with escort.

3.The learned counsel appearing for the petitioner would submit that since the petitioner is aged about 70+ years and she is sick, to look after



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her only, the son of the petitioner ie., the convict was required to be released on ordinary leave for 40 days, which has been considered and 21 days leave has been granted. Since it is a small village, there could be no facilities for the escort and that is also not required and one of the conditions imposed in the order of the 2nd respondent dated 23.03.2023 also states that the convict has to report before the Police Station concerned ie., jurisdictional Police Station daily. Therefore, that condition is itself enough to ensure the safe availability in the place concerned of the convict and therefore, the escort condition imposed in the aforesaid order can be considered and removed, he contended.

4.We have heard the learned Additional Public Prosecutor appearing for the respondents, who would submit that, the escort condition would be imposed in all such leave applications, when it is considered and granted. Therefore, it is for the Court to decide depending upon the circumstances in each and every case.

5.If at all we decide to permit the detenue ie., convict, son of the petitioner for 21 days leave as granted by the 2nd respondent through the



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order dated 23.03.2023 without escort, we feel that the condition No.3 that has been imposed by the order dated 23.03.2023 can be modified that instead of once in a day the convict ie., son of the petitioner shall appear before the jurisdictional Police Station, twice a day ie., morning between 10.00 a.m., to 11.00 a.m., and evening between 04.00 p.m., to 05.00 p.m..

6.If this condition is imposed that would adequately take care of the security aspect and ensure his presence in the locality for 21 days leave period. Accordingly, this Writ Petition is disposed of, recording the aforesaid order dated 23.03.2023 granting 21 days ordinary leave to the son of the petitioner, namely, Antony with modified condition that the convict is granted 21 days leave without escort, however, he shall appear before the jurisdictional Police Station concerned twice a day ie., morning between 10.00 a.m., to 11.00 a.m., and evening between 05.00 p.m., to 06.00 p.m., without fail. No costs.

(R.S.K., J.) & (K.K.R.K, J.)

27.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

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- 1.The Deputy Inspector General of Prison,
Madurai Zone, (Central Prison),
Madurai-625 001.
- 2.The Superintendent,
Central Prison Palayamkottai,
Palayamkottai-627 002.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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