



W.P.(MD)No.8903 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

W.P.(MD) No.8903 of 2023 &
W.M.P(MD)No.8113 of 2023

Jayanthini

.. Petitioner

VS.

- 1.The State of Tamil Nadu,
Rep. by, Secretary to Government,
Public {Foreigners-II} Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector cum Camp Officer,
Special Camp for foreigners,
Central Prison Campus, Tiruchirappalli.
- 3.The Commissioner,
Department of Rehabilitation,
Ezhilagam, Chepauk,
Chennai - 600 005.



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4.The Superintendent of Police,
'Q' Branch CID, DGP Office Complex,
Chennai - 600 004.

5.The Special Deputy Collector,
Refugee Camp, Kottapattu,
Tiruchirappalli - 620 023.

6.The Inspector of Police,
Q-Branch Police Station,
Coimbatore City,
Coimbatore.
(Cr.No.01/2019)

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records in connection with the impugned order in G.O(ID)No.169, dated 12.05.2022 passed by the first respondent and quash the same and thus, direct the respondents to release the petitioner's son, Mr.Lakshan, from the Special Camp for foreigners at Tiruchirappalli.

For Petitioner : Mr.I.Romeo Roy Alfred

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor



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ORDER

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

The petitioner had took asylum in India in the year 1990 in the Sri Lankan Tamil Rehabilitation Camp at Injampalli, Erode District. She got married to one Sivakumar in the year 2000 and her son Lakshan was born at St.Joseph Health Centre, Thiruppakkadal, Arrakonam District on 25.04.2002.

2. While the petitioner's son was pursuing his Diploma Course in Hotel Management, he was implicated in a criminal case in Crime No.1 of 2019, for the offences punishable under Sections 120(B), 420, 465, 468, 471 of IPC and Sections 12(A)(a), 12(1A)(b) of Passport Act and was arrested and remanded to judicial custody on 24.02.2022. At that time, the petitioner's son was aged 17 years. The Juvenile Justice Board, Coimbatore, had initially remanded him to judicial custody for about 70 days and on 05.05.2022, had granted statutory bail in CrI.M.P.No.71 of 2022 with certain conditions. The second condition in the order of the Juvenile Justice Board, Coimbatore was that the petitioner's son should stay at the Special



Camp for foreigners, until the disposal of the case in Crime No.1 of 2019 on the file of the second respondent herein. In consequence to this order, the Government in G.O.(1D)No.169, Public (Foreigners.II) Department, dated 12.05.2022, had restricted the movement of the petitioner's son and confined him to reside in the Special Camp notified by the District Collector, Trichy. Challenging this Government Order, the present writ petition has been filed.

3. The learned counsel for the petitioner made an attempt to substantiate that the petitioner and her family are not illegal migrants and that their presence in the Special Camp is unwarranted. He further submitted that there are violations of the provisions of the Juvenile Justice Act and therefore, restricting the petitioner's son in the Special Camp is illegal.

4. The learned Additional Public Prosecutor, however, brought to our notice that in the case of another Sri Lankan citizen, in *T.Suganthan vs. The State of Tamil Nadu, Rep. by Secretary to Government, Public (Foreigners-*



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II) *Department and others* in W.P.(MD)No.23713 of 2022 dated

18.11.2022, when a Sri Lankan citizen therein had sought for similar relief seeking for his release from the Special Camp, this Court had granted liberty to him to seek for modification of the bail condition before the concerned Juvenile Justice Board that had granted him conditional bail.

5. The present impugned Government Order is in consequence to the conditions imposed by the learned Juvenile Justice Board in CrI.M.P.No.71 of 2022 dated 05.05.2022, directing the petitioner's son to be confined in the Special Camp during the period of his bail. Effectively, the petitioner's son, now seeks for modification of this bail condition.

6. In similar circumstances, in the case of *T.Suganthan vs. The State of Tamil Nadu, Rep. by Secretary to Government, Public (Foreigners-II) Department and others (cited supra)*, in which, one of us was part of the coram, this Court had granted liberty to a similarly placed petitioner to seek for modification of the bail condition before the concerned Judicial Magistrate. The relevant portion of the order reads as follows.



"10. It is clear from the submission of the learned Additional Public Prosecutor that the Judicial Magistrate, Eraniel had come to a conclusion that the petitioner is a Srilankan national only based on the submission made by the prosecution to the effect that the petitioner is a foreign national/Srilankan national. The Court below did not have an opportunity to go through the documents that are relied upon by the petitioner to substantiate that he is an Indian citizen and the objection of the prosecution for relying upon those documents. The impugned Government order passed by the first respondent is a consequence of one of the condition imposed by the Court below while granting bail.

11. In view of the above circumstances, the petitioner has to necessarily approach the Judicial Magistrate, No.II, Eraniel and seek for modification of condition 7(b), which was imposed at the time of granting bail. While doing so, it will be left open to the petitioner to rely upon all the documents that have been placed before this Court and the prosecution can also take all the



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objections and the learned Magistrate shall deal with the same on its own merits and in accordance with law. Ultimately, based on the order passed by the Judicial Magistrate in the modification petition, further course of action can be taken. This clarity will sufficiently safeguard the interest of the petitioner as well as the prosecution."

7. We are of the view that, similar liberty could also be granted to the petitioner's son. In other words, when the concerned Juvenile Justice Board had thought it fit to impose certain conditions while granting bail, the appropriate forum to modify such a condition would be the same Court and this Court, while exercising its powers under Article 226 of the Constitution of India, will not be justified in stepping into the shoes of the concerned Juvenile Justice Board for modification of the condition.

8. In the light of the above findings and observations, the petitioner is granted liberty to approach the learned Juvenile Justice Board, Coimbatore seeking for modification of the condition imposed in its order passed in CrI.M.P.No.71 of 2022, dated 05.05.2022. On receipt of such an



application seeking for modification, the learned Juvenile Justice Board, Coimbatore shall endeavour to pass appropriate orders, as expeditiously as possible, preferably within a period of two weeks from the date of application.

9. At this juncture, the learned counsel for the petitioner submitted that the criminal case that was instituted in the year 2019 is still pending and therefore, seeks for a direction for expeditious completion of investigation.

10. The learned Additional Public Prosecutor would submit that investigation has been completed and final report has also been filed on 19.07.2023 and taken on file in Juvenile Case No.117 of 2023 by the learned Juvenile Justice Board, Coimbatore.

11. In view of the submissions made by the learned Additional Public Prosecutor, the learned Juvenile Justice Board shall endeavour to complete the entire proceedings in accordance with the procedures and time limit stipulated under Section 14 of the Juvenile Justice Act.



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12. Accordingly, the writ petition is disposed of. No costs.

Consequently, the connected Miscellaneous Petition is closed.

(M.S.R., J.)

(M.N.K., J.)

25.07.2023

NCC : Yes

Index : Yes

Speaking order

mbi/Lm



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To

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- 6.The Inspector of Police,
Q-Branch Police Station,
Coimbatore City,
Coimbatore.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 8.The Joint Secretary,
Public (La and Order) Department,
Fort St.George, Chennai.



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