



W.P.(MD)No.9210 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Raja Mohamed

... Petitioner

Vs.

1.The Deputy Inspector General of Prisons

and Correctional Services,

Madurai Range, Madurai Central Prison Campus,

New Jail Road, Madurai.

2.The Superintendent of Prison,

Central Prison, Palayamkottai,

Tirunelveli District.

3.The Probation Officer,

Palani, Dindigul District.

4.The Inspector of Police,

Dindigul Town North Police Station,

Dindigul District.

...Respondents

1/8



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in order No. 533/உத2/2023, dated 10.03.2023 and quash the same as illegal, arbitrary and consequently, direct the 1st respondent to release the petitioner's brother by name Sabir Ahamed, L.C.T.No.4117, confined at Central Prison, Palayamkottai on ordinary leave for 40 days.

For Petitioner : Mr.A.Balaji

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

ORDER

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

The order of the 1st respondent dated 10.03.2023, refusing to grant leave to the petitioner's brother, is under challenge in this Writ Petition.

2.The petitioner's brother, namely, Sabir Ahamed, is the life convict and has been in the 2nd respondent Central Prison and he become eligible to get ordinary leave to the extent of 40 days. In order to look after the ailing mother of the convict, the petitioner on his behalf made a request to the jail authorities, which has been turned out through the impugned order dated 10.03.2023.



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3.Assailing the said order, Mr.A.Balaji, learned counsel for the petitioner would submit that there are two reasons cited for getting leave and insofar as making construction of the building or the property is concerned, though it was not supported by the report of the local Inspector of Police, insofar as the sickness of the mother of the convict is concerned, it has been confirmed as true and therefore, on that ground though the local Inspector of Police has made recommendation, based on the 3rd respondent / Probation Officer's report allegedly made, the 1st respondent has rejected the plea of the petitioner and therefore, the impugned order would not sustain, he contended.

4.Heard Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for the respondents, who has produced the report of the 3rd respondent as well as the report of the concerned Inspector of Police, ie., Inspector of Police, Ayakudi Palani Sub Division Police Station, Dindigul.

5.In the said report dated 19.01.2023, the Inspector of Police has stated that it is true that the convict's mother has become sick and she has



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been taking treatment and if the convict is permitted to go for leave for 28 days ordinary leave, absolutely, there is no scope for arising any law and order issue and in an earlier occasion also, the very same convict when was on leave, he had completed the leave peacefully and returned back promptly to the jail. Therefore, he has recommended.

6.However, the 3rd respondent / Probation Officer has not recommended the leave, based on which, the impugned order has been passed by the 1st respondent.

7.We have heard the learned Additional Public Prosecutor for the respondent, who would submit that only from the point of view that no law and order issue arises in that locality alone, the report of the Inspector of Police has to be depended and for other aspects, the 3rd respondent / Probation Officer's report has to be mainly depended and in this context, taking note of the report of the 3rd respondent / Probation Officer, such an order of refusing the leave has been passed. Therefore, he wants to sustain the order.



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8. But at the same time, he fairly submitted that the convict is eligible for 40 days leave as per the relevant rule.

9. We have considered the said submissions made on either side and perused the materials available on record carefully.

10. Insofar as the earlier occasion when leave was granted to the convict is concerned, he has peacefully spent the leave and returned back to the jail promptly. Even this time there is no likelihood of arising law and order issue and that has also been vouched by the Inspector of Police, Ayakudi Palani Sub Division Police Station, Dindigul, in his report dated 19.01.2023 and also he is eligible for leave to the extent of 40 days. Therefore, we feel that atleast half of the eligible leave i.e 20 days can be permitted to be given to the brother of the petitioner, who is the life convict in the 2nd respondent jail.

11. Therefore, we are inclined to grant such ordinary leave of 20 days to the life convict, ie., the brother of the petitioner without escort on



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condition that the convict shall report before the Inspector of Police, Ayakudi Palani Sub Division Police Station, Dindigul every alternative day between 10.00 a.m., and 11.00 a.m., without fail and on completion of 20 days leave, he shall promptly return back to the 2nd respondent jail without seeking further extension of leave.

12. With the above directions, this Writ Petition stands disposed of. No costs.

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

27.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

To

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- 3.The Probation Officer,
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- 4.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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