



W.P.(MD) No.12066 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.05.2023

CORAM:

THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.12066 of 2023

K.Baskaran

... Petitioner

Vs.

1.The Home Secretary (Prison),
Home Department, Secretariat,
Fort St.George, Chennai-9.

2.The Additional Director General of Prison,
Prison Department,
No.1, Gandhi Irwin Salai, Egmore,
Chennai-600 008.

3.The Superintendent of Police,
Central Prison, Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Mandamus, directing the respondents to grant parole for a



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period of one week from 18.05.2023 to 24.05.2023 to the petitioner's brother, Mohandass, C.P.No.6134, (Life Convict) confined in Central Prison, Madurai for the purpose of attending the final ceremonial rites of his deceased own brother Narayanasamy.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.S.Ravi,

Additional Public Prosecutor

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

This Writ Petition has been filed for a direction to the respondents to grant parole for a period of one week from 18.05.2023 to 24.05.2023 to the petitioner's brother, namely, Mohandass, C.P.No.6134, (Life Convict) confined in the Central Prison, Madurai, for the purpose of attending the final ceremonial rites of his deceased own brother namely, Narayanasamy.

2.Learned counsel for the petitioner submitted that the petitioner's own brother, namely, Narayanasamy died, for which, last rites are to be performed. This apart, some arrangements have to be made in respect of family properties. Hence, the petitioner has made a detailed representation



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dated 09.05.2023 to the 3rd respondent, seeking parole for a period of one week to his brother, namely, Mohandass, who was convicted for the offences under Sections 120-B and 302 IPC by the learned Sessions Judge, Mahalir Neethimandram, Madurai. Since the same has not been considered till date, the petitioner is before this Court.

3.Learned Additional Public Prosecutor appearing for the respondents submitted that the representation of the petitioner dated 09.05.2023 is considered and rejected by the 3rd respondent on the ground that since the appeal in CrI.A.(MD)No.449 of 2022 filed by the petitioner's brother, namely, Mohandass, against the conviction and sentence imposed on him is pending, he is not eligible to seek leave under the Tamil Nadu Suspension of Sentence Rules, 1982. A copy of the said refusal order has also been produced before this Court.

4.Considering the peculiar circumstances of the case, this Court is inclined to exercise its jurisdiction under Article 226 of Constitution of India and direct release of the petitioner's brother to perform the final rites subject to the following conditions:-



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(a) The 3rd respondent is directed to grant parole to the petitioner's brother, namely, Mohandass, for a period of one week from 18.05.2023 to 24.05.2023 and release him immediately on receipt of this order along with necessary escort; and

(b) The escort cost shall be borne by the petitioner.

(c) The petitioner's brother, namely, Mohandass shall surrender before the 3rd respondent on 24.05.2023 before 05.00 P.M., without fail.

5. With the above direction, this Writ Petition stands allowed. No costs.

(T.R., A.C.J.) & (L.V.G., J.)

17.05.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

Note: Issue Order copy forthwith.

To

1. The Home Secretary (Prison),
Home Department, Secretariat,
Fort St. George, Chennai-9.



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2.The Additional Director General of Prison,
Prison Department,
No.1, Gandhi Irwin Salai, Egmore,
Chennai-600 008.

3.The Superintendent of Police,
Central Prison, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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T.RAJA, A.C.J.

AND

L.VICTORIA GOWRI, J.

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