



W.P.(MD).No.17986 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 26.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

W.P.(MD).No.17986 of 2023

A.S.Muthukrishnan

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Home (Prison-IV) Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Additional Director General of Police/
Inspector General of Prison,
No.1, Gandhi Irwin Salai,
Egmore,
Chennai – 600 008.

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

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
to issue a writ of Mandamus, directing the respondents to consider the



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petitioner's representation dated 24.07.2023, for extension of emergency leave which was granted by the third respondent dated 22.07.2023.

For Petitioner : M/s.S.Prabha

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner, who is a life convict, was granted emergency leave for three days between 22.07.2023 and 26.07.2023. On the ground that his mother is diagnosed with a case of Periapillary Carcinoma with Cholangitis and that the patient underwent ERCP with CBD stenting on 20.07.2023, he seeks for extension of the emergency leave through the present Writ Petition.

2. We had called upon the learned Additional Public Prosecutor appearing for the respondents to verify the family particulars of the petitioner as well as his mother's medical condition. Accordingly, the learned Additional Public Prosecutor submitted that the petitioner is one



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among the two sons of his parents, apart from two other daughters. The learned Additional Public Prosecutor further submitted that the petitioner's father is also alive and he is taking care of the petitioner's mother.

3. In this background, we are of the view that in view of the presence of the family members of the petitioner, who are in a position to take care of his mother, the petitioner's physical presence may not be required.

4. The learned Additional Public Prosecutor further submitted that the petitioner has exhausted the entire period of fifteen days and therefore, he would not be entitled for emergency leave.

5. Rule 13 of the Tamil Nadu Suspension of Sentence Rules, 1982 prescribes a period of 15 days in a year for grant of emergency leave, which is to be spread over four spells, subject to a maximum of six days in any one spell. However, in exceptional cases, the Government may extend the period of emergency leave following the procedure prescribed in Rule 34. On a cursory reading of the maximum period prescribed under Rule 13 together with the powers of the Government to extend the period of the



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emergency leave, it could be said that the maximum period of 15 days therein is not mandatory in nature, but rather directory, in view of the powers of the Government to extend the maximum period of 15 days. However, such extension could be done only in exceptional cases as considered by the Government.

6. In the instant case, we do not consider the petitioner's ground for seeking extension of the emergency leave as a exceptional case so as to enable him to stay further out of the prison. As such, there are no merits in the present Writ Petition.

7. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

(M.S.R.,J.) (M.N.K.,J.)
26.07.2023

NCC : Yes / No
Index : Yes / No
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To

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



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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