



W.P.(MD).No.18413 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.07.2023

CORAM

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

W.P.(MD).No.18413 of 2023

Mahalakshmi

.. Petitioner/Wife of the Prisoner

Vs.

1.The Deputy Inspector General of Prison,
Madurai Zone,
Madurai Central Prison,
Madurai – 625 001.

2.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli – 627 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for records pertaining to the impugned order of the 1st respondent dated 05.04.2023 passed in No.835/Utha.2/2023 and quash the same and consequently directing the respondents to grant ordinary leave for 40 days without escort to petitioner's Husband, the convict prisoner, namely Sathish (a) Sadhasivaperumal, aged



W.P.(MD).No.18413 of 2023

42 years, Convict No.3367, presently detained at Central Prison, Palayamkottai.

For Petitioner : M/s.Lakshmi
for Mr.R.Narayanan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

By consent of both the parties, this Writ Petition is taken up for final disposal.

2. On the ground that the petitioner is unable to financially support her family, she seeks for eligible ordinary leave for her husband, namely, Sathish @ Sadhasivaperumal, aged about 42 years (Convict No.3367), who is presently detained at Central Prison, Palayamkottai, without escort. The petitioner's request for ordinary leave for her husband was rejected through the impugned order, dated 05.04.2023, by the first respondent herein. Challenging the same, the present Writ Petition has been filed.



W.P.(MD).No.18413 of 2023

WEB COPY

3. The learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the petitioner's husband is entitled for the ordinary leave for a period of 21 days.

4. Under Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982, a prisoner shall be entitled for ordinary leave on various circumstances including, to make arrangements for the livelihood of his family and for the settlement of life after release. Rule 22(2)(b) provides for grant of ordinary leave for a period of 21 days for the prisoners, who have been sentenced to imprisonment for a period exceeding five years but not more than fourteen years.

5. In the instant case, the petitioner's husband was sentenced to imprisonment for a period of ten years by the judgment dated 27.05.2015 passed in Spl.C.C.No.20/2014 on the file of the Sessions Court, Mahalir Neethimandram, Thoothukudi. He has completed three years of incarceration after conviction. In view of Rule 22(1)(a), he would be



W.P.(MD).No.18413 of 2023

entitled for 21 days of ordinary leave. In the impugned order dated 05.04.2023, the first respondent herein, had simply observed that the Probation Officer as well as the local Police have not favourably recommended the case of the petitioner's husband for grant of ordinary leave and therefore, rejected the same.

6. The learned Additional Public Prosecutor has produced the case file before this Court today. A perusal of the same reveals that the Probation Officer, though has sought for the views of the jurisdictional Police, the same has not been received by him and in this background, he has prepared the report dated 18.03.2023. While perusing the report, it is seen that the Probation Officer seems to have conducted an enquiry with regard to the financial status of the petitioner and her family and by referring to the agricultural land standing in the name of her father and that she is working as a coolie on daily wages of Rs.250/-, the Probation Officer had come to the conclusion that the petitioner is in a financial status to maintain herself and had refused to give a favourable report. After the Probation Officer had given his report, the Sub Inspector of Police had sent a response to the first



W.P.(MD).No.18413 of 2023

respondent herein stating that if the petitioner's husband is granted ordinary leave, there is likelihood that he would abscond.

7. We are not convinced in the reasoning adopted by the Probation Officer at the first instance. Merely because the petitioner's father owns agricultural land, it does not mean that the land would fetch an income and even so, the possibility of that income coming to a married daughter, requires to be looked into. These aspects have not been addressed by the Probation Officer at all. This apart, the Probation Officer has also referred to the petitioner's income of Rs.250/- on daily wages basis, by working as a coolie. This fact itself would indicate the financial status of the petitioner and substantiate that she is unable to meet out the daily expenses of her family and therefore, she has undertaken the work of coolie on daily wages basis.

8. Though the Sub Inspector of Police had not initially responded to the request of the Probation Officer to render his views with regard to the grant of ordinary leave to the petitioner's husband, thereafter, he seems to



W.P.(MD).No.18413 of 2023

have responded to the communication of the first respondent and stated that there is likelihood that the petitioner's husband might abscond if he is granted ordinary leave. Such a vague statement would not suffice for rejecting the petitioner's request. If such statements are being made by the concerned jurisdictional Police, the same analogy will be applicable to all the convicts in prison and therefore, the provision for grant of ordinary leave itself would be rendered futile. Thus, the impugned order, rejecting the petitioner's request, cannot be sustained.

9. Accordingly, the impugned order, dated 05.04.2023, on the file of the first respondent is quashed. Consequently, there shall be a direction to the first respondent herein to forthwith pass orders granting ordinary leave to the petitioner's husband, namely, Sathish @ Sadhasivaperumal, aged about 42 years (Convict No.3367), who is presently detained at Central Prison, Palayamkottai, for a period of 10 days commencing from 02.08.2023, without escort, on condition that the petitioner's husband reports before the Inspector of Police, Eppodhumvendran Police Station, Thoothukudi District, daily twice, i.e., at 10.00 AM and 5.00 PM for the



W.P.(MD).No.18413 of 2023

entire period of ordinary leave. The first respondent is also at liberty to impose any other reasonable conditions while granting ordinary leave. On expiry of the ordinary leave period, the petitioner's husband shall surrender and report before the first respondent herein before 5.00 PM of the expiry date.

10. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

(M.S.R.,J.) (M.N.K.,J.)
31.07.2023

NCC : Yes / No
Index : Yes / No
Lm

To

1.The Deputy Inspector General of Prison,
Madurai Zone,
Madurai Central Prison,
Madurai – 625 001.

2.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli – 627 002.

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

Page 7 of 8



WEB COPY



W.P.(MD).No.18413 of 2023

M.S.RAMESH,J.
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Lm

W.P.(MD).No.18413 of 2023

31.07.2023