



W.P.(MD).No.18553 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.08.2023

CORAM

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

W.P.(MD).No.18553 of 2023

S.Kanimozhi

.. Petitioner

Vs.

- 1.The Secretary to Government,
Home (Prison-IV) Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Additional Director General of Police (Prisons)/
The Inspector General of Prisons,
Thalamuthu Natarajar Maaligai,
Egmore,
Chennai.
- 3.The Deputy Inspector General of Prisons,
Madurai Range,
Madurai.
- 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai.



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5.The State represented by
The Inspector of Police,
Thideernagar Police Station,
Madurai City.
(Crime Numer.853/2020)

6.The State Represented by
The Inspector of Police,
S.S.Colony Police Station,
Madurai City.
(Crime Number.285/2019)

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to direct the respondents to release the petitioner's brother namely Sudharsan @ Vellaiyan (CP No.1746) son of Sivakumar aged about 23 years, confining at Madurai Central prison on parole for the period of 7 days for enable petitioner's brother by name Sudharsan @ Vellaiyan to perform his mother Maheshwari's final rituals.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

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

The petitioner's brother, namely, Sudharsan @ Vellaiyan (CP No. 1746), S/o.Sivakumar, aged about 23 years, is confined at Madurai Central prison in connection with the conviction ordered in C.C.No.319 of 2021 dated 24.04.2023. When the petitioner's mother died on 28.07.2023, which was due to a road accident in front of the Madurai Central Prison after she visited her son, the petitioner had given a representation to the fourth respondent herein seeking for emergency leave for the purpose of releasing the petitioner to perform the funeral rituals of her mother. Since the said representation was not considered by the fourth respondent, the present Writ Petition has been filed.

2. On 29.07.2023, this Court had passed an interim order granting emergency leave to the petitioner's brother for one day between 29.07.2023 and 30.07.2023. Pursuant to the orders passed, the petitioner's brother was also granted emergency leave and accordingly, he was released on



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29.07.2023 at 7.00 PM and after performing the funeral rituals, he had reported back to the Prison on 30.07.2023 at 4.30 PM.

3. Incidentally, this Court had taken note of the conduct of the fourth respondent herein in not considering a request of this nature, particularly when Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982 provides for grant of emergency leave for attending death etc., of the family members of the prisoners. The fourth respondent herein has filed an affidavit dated 07.08.2023, tendering his unconditional apology in the following manner:

“1. I submit that the petitioner's brother, Convict Prisoner No.1746 Sudharsan @ Vellaiyan son of Sivakumar was convicted by the I Additional Special Court for NDPS Act cases Madurai in CC No. 319/2021 dated 24.04.2023 and admitted in this prison as convict on 24.04.2023. He is facing pending cases in various courts as detailed below:

(a) Original Warrant - Concerned in Anna Nagar PS Cr. No. 239/2023 u/s 147,341,294 (b), 353, 506 (ii) IPC in JM-VI, Madurai (Lastly heard on 26.07.2023 and posted for next hearing on 09.08.2023.



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(b) *P.T. Warrant* - *Concerned in Thideer Nagar PS Cr. No.853/2020 u/s 147. 148. 294(b). 506(ii) IPC & 25 (I-A) of Arms Act in VI Additional District and Sessions Court, Madurai. (Next date of hearing: 07.09.2023)*

2. I submit that the above said case in JM-VI, Madurai has been registered against him for the reason that he had used filthy language against the Judges during the time of proclamation of Judgement against them in I Additional Special Court NDPS cases, Madurai and his activities were hindrance to the day to day activities of the Hon'ble court.

3. I humbly submit that the explanatory note mentioned supra is not to justify my action, but to impress upon this Hon'ble Court, the explanation on my side, as directed by this Hon'ble Court in paragraph 7 of its order dated 29.07.2023.

4. I humbly tender my unconditional apology for my act in refusing to consider the case of the convict on humanitarian grounds, I regret for my act, which has resulted in great hardship to the convict. I affirm that I would act in cases of this nature with due care and diligence in future, Further my act in rejecting the leave request of the detenu is not anything intentional but out of my inexperience. I would once again reiterate before this Hon'ble Court to act with proper care and caution in future, whenever emergency leave is sought for death of relatives of the convict as enumerated in the rules.



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4. I submit that I would act in due diligence in future and I plead unconditional apology for the present act. I pray that this Hon'ble Court may be pleased to accept the present affidavit."

4. Though we had expressed our displeasure in the manner in which the fourth respondent herein had not considered the petitioner's request for grant of emergency leave to her brother, we have taken into consideration the reasons assigned by the fourth respondent in the aforesaid affidavit. By accepting the reasons assigned, no further orders are required in the present Writ Petition. Accordingly, the Writ Petition stands closed. There shall be no order as to costs.

(M.S.R.,J.) (M.N.K.,J.)
07.08.2023

NCC : Yes / No
Index : Yes / No
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To

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Secretariat,
Fort St. George,
Chennai – 600 009.
2. The Additional Director General of Police (Prisons)/
The Inspector General of Prisons,
Thalamuthu Natarajar Maaligai,
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3. The Deputy Inspector General of Prisons,
Madurai Range,
Madurai.
4. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
5. The Inspector of Police,
The State,
Thideernagar Police Station,
Madurai City.
6. The Inspector of Police,
The State,
S.S.Colony Police Station,
Madurai City.
7. 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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