



W.P.(MD).No.19207 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.08.2023

CORAM

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

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P.Kamalambal

.. Petitioner/
Wife of the detenu

Vs.

1.The State represented by its
The Deputy Inspector General of Prison,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.

2.The Superintendent,
Central Prison,
Trichy – 620 020.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the vide Impugned Order bearing No.2570/Mu.Vu/2023, dated 28.06.2023, issued by the 1st respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 21 days without escort to the detenu, Sankaralingam, S/o.Vadivel, aged about 57 years, life convict No.84077, confined at Central Prison, Trichy.



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For Petitioner : Mr.R.Narayanan
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner seeks for grant of ordinary leave for 21 days for her husband, namely, Sankaralingam, who is a life convict (Life Convict No.84077) and confined at Central Prison, Trichy, predominantly on the ground that her husband is affected by epilepsy and is in medication and he suffered from severe heart attack and had undergone Angiogram on 17.10.2022 and that his presence is required for further treatment for himself as well as his son. The petitioner's request was rejected through the impugned order dated 28.06.2023, on the ground that when her husband was granted emergency leave between 01.09.2022 and 05.09.2022, he had violated the Prison Rules by circulating false propaganda on social media alleging that the prison authorities are propagating religious conversions. Challenging the said order, the present Writ Petition has been filed.



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2. While the learned counsel for the petitioner submitted that these allegations are false, the learned Additional Public Prosecutor appearing for the respondents stated that since it was found that the petitioner's husband had indulged in such circulation of messages in the social media, he had become ineligible for ordinary leave under Rule 21(d)(6) of the Tamil Nadu Suspension of Sentence Rules, 1982. The learned Additional Public Prosecutor further submitted that the petitioner's husband had also violated the bond condition of maintaining good behaviour and abstaining from committing any offence during his leave.

3. We had perused the files of the respondents in connection with the statements made by them. As per the note file, it is stated that when the petitioner's husband was on emergency leave between 01.09.2022 and 05.09.2022 for three days, he had circulated a message in the social media alleging that one Jesudhas, First Grade Constable, was indulging in religious conversions, since the concerned Constable was inimical towards the convict and was opposing his emergency leave. The said statements were made pursuant to the enquiry conducted by the Special Investigation Unit, Trichy. Pursuant to the report, through an office memo dated



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12.09.2022, the benefits available to the prisoner were suspended for three months. Apparently, this suspension had ended in the month of December 2022 itself.

4. The main objection raised by the learned Additional Public Prosecutor is that the petitioner's husband has violated the bond conditions, as well as has become ineligible in view of Rule 21(d)(6) of the Tamil Nadu Suspension of Sentence Rules, 1982. The non-eligibility of a prisoner for grant of ordinary leave under Rule 21 cannot be said to be mandatory in view of Rule 40, which grants powers to the Government to exempt any prisoner from any Rule or the entire Rules and therefore, the conditions for considering a prisoner as ineligible for grant of ordinary leave could only be directory in nature. Even otherwise, when the respondents have found that the petitioner's husband had violated the conditions when he was on emergency leave, they had chosen to impose a punishment by withdrawing all the prison benefits for a period of three months and the punishment was also implemented. While that being so, rendering the prisoner now ineligible for ordinary leave throughout his incarceration, may amount to double punishment and on this ground also, the grounds for rejection of the



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petitioner's request for grant of ordinary leave for her husband cannot be sustained.

5. It is now submitted by the learned Additional Public Prosecutor that the petitioner's husband would otherwise be entitled for grant of ordinary leave for a period of 21 days. We are of the view that the leave could be restricted to a period of 15 days for this spell.

6. In the result, the impugned order dated 28.06.2023, on the file of the first respondent, is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders granting ordinary leave to the petitioner's husband, namely, Sankaralingam (Life Convict No.84077), for a period of 15 days commencing from 23.08.2023. While granting such ordinary leave, the first respondent shall be at liberty to impose reasonable restrictions, apart from obtaining necessary bond from the petitioner's husband. The petitioner's husband shall also give a sworn affidavit stating that he will not indulge in falsely propagating news in the social media or any other public platform. While imposing such conditions, the first respondent shall be at liberty to impose a condition for the



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petitioner's husband to report before the Inspector of Police, Town Police Station, Tiruvarur District, twice daily at 10.00 AM and 6.00 PM, for the entire period of the ordinary leave. On completion of the ordinary leave period, the convict shall surrender before the second respondent herein forthwith.

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

(M.S.R.,J.) (M.N.K.,J.)
21.08.2023

NCC : Yes / No
Index : Yes / No
Lm

Note: Issue order copy by 22.08.2023.



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To

- 1.The Deputy Inspector General of Prison,
The State,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.
- 2.The Superintendent,
Central Prison,
Trichy – 620 020.
- 3.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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