



WP(MD)No.20181 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.08.2023

CORAM

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

W.P.(MD)No.20181 of 2023

Saravanan

... Petitioner

Vs.

1.The Additional Director General of Prison,
O/o.The Additional Director General of Prison,
Madurai Range, Madurai.

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

3.The Inspector of Police,
Selaiman Police Station
Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 1 & 2 respondents to grant emergency leave to the petitioner's brother Mani @ Manimaran (V.C.No.5723) detained in the 2nd respondent prison on parole Sunday (20.08.2023) to attend marriage function of petitioner's own son namely Saranraj based on the petitioner's representation dated 11.08.2023.



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For Petitioner : Mr.S.Sivaprakash

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

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

The petitioner's brother is a life convict, who has been detained in the second respondent prison from 28.11.2017 in connection with the conviction and sentence imposed in S.C.No.282/2011. He now seeks for grant of emergency leave on the ground that the life convict intends to participate the petitioner's son's marriage scheduled to be held on 20.08.2023. Since his representation in this regard has not been considered within a reasonable time, the present writ petition has been filed.

2.The learned Additional Public Prosecutor placing reliance on Rule 6 of the Suspension of Sentence Rules, 1982, (hereinafter referred to as 'the Rules') submitted that since the prisoner's brother's son is getting married, Rule does not provides for grant of emergency leave to the wedding of such a relation. According to the learned Additional Public Prosecutor, emergency leave is granted to the prisoner only to attend the wedding of the prisoner's son, daughter, full brother or full sister of the prisoner.



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3. In a case of this nature, we had already taken a view that the reasons assigned in Rule 6 of the Rules for consideration of grant of emergency leave are not mandatory in nature but only directory in nature, in view of Section 6, which empowers the Government to grant exemption to any person as per the Rules.

4. In the instant case, it is the case of the petitioner that though the prisoner's brother (life convict) is nurturing his son as his own son, therefore, his presence in his son's marriage is imperative. Hence, we are of the view that the life convict's emergency leave could be restricted to three days to enable him to attend the marriage of the his brother's (petitioner) son.

5. Accordingly, the writ petition is disposed of with the following directions:

(i) there shall be a direction to the respondents 1 and 2 herein to forthwith pass orders granting emergency leave to the prisoner, namely, Mani @ Manimaran (V.C.No.5723), S/o.Rasu Servai for a period of three days, commencing from tomorrow ie., 19.08.2023 (11.00 a.m.) to 21.08.2023 (til 5.00 p.m.) together with escort for the purpose of attending the marriage function of the



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petitioner's son, namely, Saranraj, dated 20.08.2023. While passing such orders,

the first respondent is at liberty to impose reasonable conditions ; and

(ii) On completion of emergency leave, the life convict shall report before the second respondent forthwith, ie., before 5.00 p.m. on 21.08.2023.

List the matter, on **22.08.2023**, under the caption, '**for reporting compliance**'.

(M.S.R.,J.) (M.N.K.,J.)
18.08.2023

NCC : Yes / No

Index : Yes / No

Office to Note: Issue order copy today itself(18.08.2023)

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

RR

To

- 1.The Additional Director General of Prison,
O/o.The Additional Director General of Prison,
Madurai Range, Madurai.
- 2.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
- 3.The Inspector of Police,
Selaiman Police Station
Madurai District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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