



WP(MD)No.20261 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2023

CORAM

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

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Balakrishnan

.. Petitioner

Vs.

1.The Deputy Inspector General of Prison,
O/o.The Deputy Inspector General of Prison,
and Correctional Services
Madurai Range, Madurai Central Prison campus,
New Jail Road, Madurai.

2.The Superintendent of Prison,
Central Jail
Palayamkottai
Tirunelveli District

.. Respondents

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to set aside the impugned order passed by the respondent No.2 in No.4033/Ta.Ku.2/2023 dated 02.08.2023 and further direct the respondent No.2 to grant ordinary leave for period of 20 days without escort to the petitioner's son namely Prabhakaran, S/o.Balakrishnan CP No.4904, who is life convicted in a murder case and languishing in Palayamkottai Central Jail.



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For Petitioner : Mr.S.Mohamed Ali Jinnah
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

On the ground that the prisoner's mother is medically ill, his request for ordinary leave came to be rejected by the prison authorities through the impugned order dated 02.08.2023 stating that since the petitioner has been convicted for life for an offence under Section 396 IPC, there is a bar under Rule 21(b) of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'the Rules').

2. Rule 21(b) of the Rules prohibits grant of ordinary leave for prisoner sentenced to life imprisonment for offences under Sections 392 to 402 IPC. When there is a clear prohibition under the Rules, there is no infirmity in the impugned order of rejection. Hence, we do not find any reason to interfere with the same. Accordingly, the writ petition stands dismissed. At this juncture, the learned counsel for the petitioner submitted that under Rule 40 of the Rules, the Government has powers to exempt any



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person from all or any of the provisions of these Rules. We are of the view that such an exemption can be considered only by the Government and not by this Court. In this background, the petitioner is granted liberty to make an appropriate representation to the Government seeking for exemption and on receipt of such a representation, the Government shall consider it on its own merits and pass appropriate orders in accordance with law.

3. The writ petition stands dismissed with the above liberty.

(M.S.R.,J.) (M.N.K.,J.)
20.09.2023

NCC :Yes / No

Internet : Yes

RR

To

1.The Deputy Inspector General of Prison,
Madurai Range, Madurai Central Prison campus,
New Jail Road, Madurai.

2.The Superintendent of Prison,
Central Jail, Palayamkottai
Tirunelveli District

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.

RR

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