



W.P.(MD).No.21987 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.09.2023

CORAM

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

W.P.(MD).No.21987 of 2023

Velayutham

.. Petitioner/Father of the detenu

Vs.

The State represented by its;

1.The Deputy Inspector General of Prison,
Madurai Zone, (Central Prison),
Madurai - 625 001.

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

.. 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.686/Vu.Tha.2/2023, dated 10.03.2023, issued by the 1st respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 40 days without escort to the detenu, Sundaralingam @ Karuppusamy S/o. Velayutham, aged about 41 years, confined at Central Prison, Palyamkottai.



W.P.(MD).No.21987 of 2023

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 is the father of one Sundaralingam @ Karuppusamy, (Life Convict Prisoner No.3357), whose request for grant of ordinary leave to his son was rejected through the impugned order dated 10.03.2023, predominantly on the ground that his son's case was not favourably recommended by the Probation Officer as well as the jurisdictional Police. Challenging the same, the present Writ Petition has been filed.

2. The petitioner now seeks for grant of ordinary leave for a period of 40 days without escort for his son. Admittedly, the petitioner's son has not completed 14 years of imprisonment after conviction. Rule 22(2)(c) of the Tamil Nadu Suspension of Sentence Rules, 1982 provides that a prisoner, who has completed six years of imprisonment, but not completed 14 years,



W.P.(MD).No.21987 of 2023

would be entitled for grant of ordinary leave for a period of 28 days alone.

As such, the petitioner's request for 40 days of ordinary leave for his son will not be feasible.

3. In the affidavit filed in support of the present Writ Petition, it is claimed that the petitioner is aged about 70 years and his wife is also aged about 63 years. It is further stated that both of them are suffering from several medical ailments and that the health condition of the petitioner's wife, who suffers from tuberculosis, has deteriorated. The petitioner claims that the presence of his only son is required for him to arrange money for the medical expenses as well as for taking care of them. We are convinced with the reasons assigned in the affidavit, seeking for grant of ordinary leave.

4. In the impugned order, reliance has been placed on the report of the Probation Officer and the jurisdictional police. On perusal of the original file produced by the learned Additional Public Prosecutor, the Probation Officer has made a reference to the observations of the jurisdictional Police



W.P.(MD).No.21987 of 2023

stating that there is a likelihood of danger to the life of the petitioner's son, if he is released on ordinary leave, since he has murdered his own wife. A mere apprehension that there could be some danger to a life convict prisoner, if he is released on ordinary leave, will not be sufficient, unless such a statement is substantiated with other statements and evidences. It is needless to point out that in all cases where a conviction of life imprisonment is granted for a prisoner involved in an offence under Section 302 IPC, such a vague statement can always be made for rejecting the request for grant of ordinary leave. In this background, we are of the view that if the petitioner's son is imposed with a condition to report before the jurisdictional Police at least twice in a day during the entire course of his leave period, the ends of justice could be secured.

5. Accordingly, the impugned order dated 10.03.2023 on the file of the first respondent is quashed. Consequently, there shall be a direction to the first respondent herein to pass fresh orders granting ordinary leave to the petitioner's son, Sundaralingam @ Karuppusamy (Life Convict Prisoner No. 3357), for a period of 28 days commencing from 10.00 AM of 25.09.2023.



W.P.(MD).No.21987 of 2023

While passing such orders, the first respondent herein shall also impose a condition for the petitioner's son to report before the Inspector of Police, Kulasekarapattinam Police Station, Thoothukudi, twice daily at 10.00 AM and 6.00 PM, apart from any other reasonable conditions/restrictions for the leave period.

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

(M.S.R.,J.) (M.N.K.,J.)
19.09.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Deputy Inspector General of Prison,
Madurai Zone, (Central Prison), Madurai - 625 001.
- 2.The Superintendent,
Central Prison Palayamkottai,
Palayamkottai – 627 002.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P.(MD).No.21987 of 2023

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W.P.(MD).No.21987 of 2023

19.09.2023