



WP(MD)No.24034 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P.(MD)No.24034 of 2023

Chellammal

: Petitioner

Vs.

- 1.The State represented by its,
The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai – 600 009.
- 2.The Deputy Inspector General of Police (Prison),
Madurai Range,
Madurai.
- 3.The Superintendent of Police,
Palayamkottai Central Prison,
Tirunelveli District.

: Respondents



WP(MD)No.24034 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant ordinary leave for 28 days without escort to the petitioner's husband namely Sankaranarayanan, S/o.Paramadevar, aged about 56 years life convict prisoner bearing Convict No.LCT.No.3833 detained at Central Prison, Palayamkottai.

For Petitioner : Mr.M.Perumal

For Respondents : Mr.A.Thiruvadi Kumar
Addl. Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

This order will now dispose of the captioned Writ Petition.

2. Short facts are that the writ petitioner's spouse one 'Sankaranarayanan is a prison inmate (convict No.3833) now lodged in Central Prison, Palayamkottai' (hereinafter 'said prison inmate' for the sake of convenience and clarity); that the writ petitioner, who was also a co-accused and who was convicted by the trial Court, but sentence modified as life from capital punishment by the High Court and ultimately set at liberty



WP(MD)No.24034 of 2023

by the Supreme Court, has sent a representation dated 21.09.2023 by post requesting for 28 days ordinary leave to the said prison inmate; that the representation has been sent on the ground that the writ petitioner is not keeping good health and is having difficulty in going over to the prison and meet the said prison inmate; that captioned Writ Petition has been filed / presented in this Court on 25.09.2023, with a Mandamus prayer qua this 21.09.2023 representation.

3. Mr.M.Perumal, learned counsel for writ petitioner is before us.

4. Before delving into the matter, we deem it appropriate to make it clear that under the normal circumstances, we would not have entertained this Mandamus plea. The reason is, representation is dated 21.09.2023 and it has admittedly been sent by mail on 21.09.2023. This means that it could have reached the second respondent by 22.09.2023 at the earliest. To be noted, 22.09.2023 is Friday. The Writ Petition has been filed on the next working day namely, 25.09.2023 Monday.



WP(MD)No.24034 of 2023

5. Mandamus qua representation can be sought when there is inaction on the part of the State and the inaction should be over a period of time. In other words, reasonable time has to be given to the respondent State to act on a representation. Therefore, though the captioned Writ Petition does not deserve to be entertained and deserves to be dismissed at the threshold on this one ground, considering the nature of the matter ie., seeking ordinary leave for the said prison inmate, making an exception and also making it clear that this is a one off case which will not serve as a precedent in similar matters and further making it clear that similar petitions in future will meet with different consequences, we proceed with the matter.

6. Issue notice. Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepted notice for all the three respondents and submitted that the representation dated 21.09.2023 is being considered.

7. From the applicable Rules, namely 'Tamil Nadu Suspension of Sentence Rules, 1982' ('said Rules' for the sake of brevity) it is evident that an application for ordinary leave should be disposed of by the jurisdictional Deputy Inspector General of Prison and in this case, it is second respondent.



WP(MD)No.24034 of 2023

We request the second respondent to consider the petitioner's representation dated 21.09.2023 on its own merits and in accordance with law and dispose of the same within three weeks from today i.e., on or before 26.10.2023.

8. The order / proceedings disposing of the representation shall be communicated to the said prison inmate as well as the writ petitioner under due acknowledgement within five working days from the date of disposal of the representation.

9. Captioned Writ Petition is disposed of on above terms. There shall be no order as to costs.

[M.S.,J.] & [R.K.M.,J.]

05.10.2023

Nuetral Citation: Yes

Index : Yes

Internet : Yes

vsm



WEB COPY



WP(MD)No.24034 of 2023

M.SUNDAR, J.

and

R.KALAIMATHI, J.

vsm

To

- 1.The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai – 600 009.
- 2.The Deputy Inspector General of Police (Prison),
Madurai Range,
Madurai.
- 3.The Superintendent of Police,
Palayamkottai Central Prison,
Tirunelveli District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P.(MD)No.24034 of 2023

05.10.2023