



W.P(MD)No.28551 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P(MD)No.28551 of 2023

R.Chandrasekar

... Petitioner

VS.

1. The State,
Rep. by the Additional Secretary to Government,
Home (Prison IV) Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Additional Director General of Police (Prisons)/
Inspector General of Prisons,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Elumbur, Chennai-600 008.
3. The Deputy Inspector General of Prison,
Madurai Range, Central Prison,
Madurai – 625 016.
4. The Superintendent,
Central Prison, Palayamkottai
Tirunelveli.

... Respondents



W.P(MD)No.28551 of 2023

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the third respondent to grant ordinary leave of 40 days without police escort to my brother Mr.Jaisanker, S/o.Rasaiya who is confined at fourth respondent prison to attend family ritual and to settle family partition and for settlement of life after release by considering my representation dated 07.11.2023.

For Petitioner	: Mr.P.Karthick
For Respondents	: Mr.A.Thiruvadi Kumar Additional Public Prosecutor

ORDER

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

Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity, convenience and clarity) has been filed in this Court on 30.11.2023.

2.Short facts are that the writ petitioner's brother (elder brother) one R.Jaisanker is a life convict (LCT No.6518) now lodged in Central Prison, Palayamkottai; that writ petitioner in and by 'a representation dated 07.11.2023' (hereinafter 'said representation' for the sake of convenience) sought one month ordinary leave for the convict prisoner; that said representation requires to be considered and that is the basis on which captioned WP has been filed with a mandamus prayer.



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3.Mr.P.Karthick, learned counsel for WP petitioner advertng to the aforesaid facts submits that 'WP petitioner's brother' (hereinafter 'said prison inmate' for the sake of convenience) remains incarcerated for 22 years having been convicted and sentenced to undergo life imprisonment under Section 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] (2 counts) by learned Sessions Judge, Fast Track Court, Tirunelveli and the same having been modified in and by an order of this Court in Criminal Appeal No.1776 of 2002 (modified means, to say that the sentences shall run concurrently instead of consecutively).

4.Learned counsel for WP petitioner submits that there are at least three reasons for seeking ordinary leave and they are as follows:

- (a) said prison inmate has to participate in a family ritual;
- (b) a family partition has to be made; and
- (c) he has to make arrangements for settlement of life after release.

5.Issue notice.



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6.Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor accepts notice for all four respondents and submits that the aforementioned reasons have not been articulated in the said representation. A perusal of said representation makes it clear that learned Prosecutor's submission is correct. Therefore, we make the following order:

(i) Said representation i.e., representation dated 07.11.2023 made by WP petitioner seeking one month leave for the said prison inmate shall be considered by the respondents along with the support affidavit in the captioned WP treating it as an additional representation. This means that the aforementioned three reasons will also now be considered;

(ii) Said representation along with an additional representation (as above) shall be considered on its own merits and in accordance with law;

(iii) Two weeks will be a reasonable time frame to take a decision is learned Prosecutor's say. Therefore, said representation and additional representation shall be decided on its own merits and



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in accordance with law by third respondent as expeditiously as his business would permit but in any event within a fortnight from today i.e., by 19.12.2023;

(iv) Though obvious, we make it clear that we are not expressing any view or opinion on the merits of the matter;

(v) Decision of third respondent on said representation/additional representation shall be communicated to WP petitioner as well as the said prison inmate within three working days from the date of the decision under due acknowledgment.

7.Captioned WP is disposed of in the aforesaid manner with the aforementioned directive. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
05.12.2023

Index : Yes/No
Neutral Citation : Yes/No
PKN



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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

PKN

To

1. The Additional Secretary to Government,
Home (Prison IV) Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Additional Director General of Police (Prisons)/
Inspector General of Prisons,
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3. The Deputy Inspector General of Prison,
Madurai Range, Central Prison,
Madurai – 625 016.
4. The Superintendent,
Central Prison, Palayamkottai
Tirunelveli.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
W.P(MD)No.28551 of 2023

05.12.2023