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W.P.No.328 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.328 of 2024

Nirosha

...Petitioner

VS.

1.State By:

The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Director General of Prisons,

Inspector General of Prisons and Correctional Service,
Whannels Road,
Egmore, Chennai-600 008.

3.The Superintendent of Prison,

Central Prison at Puzhal
Chennai-600 066.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for
issuance of a Writ of Mandamus directing the respondents to grant Ordinary



W.P.No.328 of 2024

Leave for 21 days by considering the representation of the petitioner dated 14.12.2023 and release her husband R.Rajesh Kumar @ Rajesh, S/o Rah, aged 32 years, Convict Prisoner, Central Prison, Puzhal.

For Petitioner : Ms.S.Nadhiya

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by Mr.C.Aravind

ORDER

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

The petitioner's husband, R.Rajesh Kumar @ Rajesh, who has been convicted in connection with a judgment passed by this Court in CrI.Appeal No.465 of 2021 for a period of ten years, is claimed to have completed two years of incarceration. In the present writ petition, the petitioner seeks for grant of Ordinary Leave for a period of twenty one days leave for release of her husband.

2. Learned Additional Public Prosecutor submits that the Probationary Officer has not made any favourable recommendation for release of the petitioner's husband. However, he has also stated that the Jail Authorities themselves have granted an emergency leave for three days through Order dated



W.P.No.328 of 2024

30.09.2023. However, for the reasons best known to the respondents, the order, granting such leave, was not implemented. In this background, the present writ petition has been filed.

3. Pending writ petition, we passed an order on 12.01.2024 by recording the submission of the learned Additional Public Prosecutor that the authorities are likely to release the petitioner's husband on three days emergency leave and accordingly, had directed the authorities to ensure that the petitioner's husband is released with escort in plain clothes only.

4. Today, when the matter was called, learned counsel for the petitioner submits that the petitioner's husband was released on 16.01.2024 and he was escorted by policemen in uniform. Learned counsel for the petitioner also submitted that since the medical treatment of petitioner's second son is still being extended, her husband's presence is necessary.

5. We have taken into consideration of the fact that though the Probationary Officer had subsequently passed an order on 10.01.2024, not giving favourable report by apprehending that it could be commotion in the area



W.P.No.328 of 2024

from the affected family, we have taken into account that the jail authorities themselves have already taken decision to extend emergency leave to the petitioner's husband. This apart, the Probationary Officer has also recorded in his Report that the family of the victim is not residing in the same area.

6. We are of the view that if the petitioner's husband is released on Ordinary Leave with a condition to report before the respondent daily, the apprehension of the Probationary Officer could be overcome.

7. At this juncture, the learned Additional Public Prosecutor submitted that the petitioner's husband is eligible for twenty one (21) days of Ordinary Leave.

8. In the light of the above observations and also by taking note of the fact that the petitioner's husband's emergency leave expires today, the petitioner's husband is granted 21 days of Ordinary Leave without escort, commencing from 5.00 p.m of 18.01.2024 with a condition that the petitioner's husband shall report before the Inspector of Police, H-5, New Washermenpet Police Station, Chennai daily at 10.30 a.m.



W.P.No.328 of 2024

WEB COPY

9. On expiry of 21 days of Ordinary Leave, the petitioner's husband viz., R.Rajesh Kumar @ Rajesh, S/o Raj shall surrender before the third respondent at 5.00 p.m of 08.02.2024.

The writ petition stands ordered accordingly. No costs.

(M.S.R.,J.) (S.M.,J.)
18.01.2024

sr

Index:yes/no

Internet:yes/no

Note: Registry is directed to upload
the order today itself.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Director General of Prisons,
Inspector General of Prisons and Correctional Service,
Whannels Road,
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W.P.No.328 of 2024

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W.P.No.328 of 2024

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