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W.P.No.362 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.362 of 2024

R. Gunasekar

... Petitioner

Vs.

1. The Inspector General of Prisons
Chennai Range, Prison Head Quarters,
Egmore, Chennai 600 008.

2. The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai 600 066

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to grant ordinary leave for 28 days by considering the representation of the petitioner dated 13.12.2023 and release the petitioner namely R.Gunasekaran, S/o. Raaghu, aged 34 years, convict No.7680, Convict Prisoner, Central Prison-1, Puzhal, Chennai.



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For Petitioner : Ms.S. Nadhiya
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by Mr.Aravind, C.

ORDER

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

The petitioner herein is the life convict prisoner, confined in Central Prison-1, Puzhal, Chennai. In the present Writ Petition, he seeks for grant of ordinary leave for 28 days on the ground that his presence is required to repair the damaged hut and for arranging medical expenses for his wife.

2. While the learned counsel for the petitioner submitted that the hut in which the petitioner's wife is living is in a dilapidated condition and therefore his presence for repairing the hut is very much required, the learned Additional Public Prosecutor submitted that since the petitioner has been convicted for the offence under Section 394 IPC along with the other offences, there is a bar under Rule 21(b) of the Tamil Nadu Suspension of



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Sentence Rules, 1982 (herein after referred to as the "Rules").

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3. It is no doubt true that the prisoners who have been sentenced under 392 to 402 of the Indian Penal Code will not be eligible for ordinary leave under Rule 21 of the Rules. However, Rule 40 of the Rules gives the Government the powers to exempt any person from all or any of the provisions of these Rules, which includes the power of the Government to grant ordinary leave for the prisoners who are rendered ineligible for ordinary leave under Rule 21 of the Rules. Thus, it cannot be stated that Rule 21 is a total bar since it empowers the Government to relax the eligibility criteria for grant of ordinary leave.

4. In this background, it would be pertinent to point out that Rule 20 (vii) of the Rules provides for grant of ordinary leave to a prisoner for "any extraordinary reason". The case of the petitioner is that the house in which his wife is living is in a dilapidated condition and requires emergent repairs. The photographs of the damaged hut have been circulated to us, from which it is evident that the hut is apparently in very bad and uninhabitable condition. This apart, he has brought to our notice about the



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medical ailments which his wife is undergoing and has also sought for grant of ordinary leave on the ground of arranging medical expenses for her. We are convinced that the petitioner may require atleast 28 days for repairing his house as well as for arrangement of funds for the medical expenses of his wife. In this background, we are constrained to invoke our powers under Article 226 of the Constitution of India for the purpose of granting ordinary leave.

5. In the light of the above observations, the petitioner herein is granted ordinary leave for a period of 28 days, without escort, commencing from 24.01.2024 till 20.02.2024, on the following conditions.

(i) the respondents are directed to grant Ordinary Leave to the petitioner for a period of 28 days, without escort, commencing from 24.01.2024 to 20.02.2024.

(ii) The petitioner is directed to report before the Inspector of Police, Chunambedu Police Station, Chengalpattu District, daily at 10.30 A.M., during the period of leave.

(iii) After expiry of the ordinary leave, the petitioner shall surrender



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before the 2nd respondent herein, on 20.02.2024 before 05.00 p.m.

WEB COPY (iv) The petitioner shall utilize the leave only for the purpose for which it has been granted and shall not indulge in any other activities.

6. With the above directions, the Writ Petition stands allowed. There shall be no order as to costs.

[M.S.R., J] [S.M., J]
22.01.2024

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

Note to office : Issue Order Copy on 23.01.2024
Upload the order copy forthwith

To

1. The Inspector General of Prisons
Chennai Range, Prison Head Quarters,
Egmore, Chennai 600 008.
2. The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai 600 066
3. The Public Prosecutor,
High Court, Madras.

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4. The Inspector of Police, Chunambedu Police Station,
Chengalpattu District.

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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