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W.P.No.985 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM :

THE HON'BLE MR. JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.No.985 of 2024

V.Lakshmi

...Petitioner/Wife of Detenu

vs.

1. The Home Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Additional Director General of Police and
Inspector General of Prisons,
Whannels Road, Egmore, Chennai – 600 008.

3. The Superintendent of Prison,
Cuddalore Central Prison, Cuddalore District.

4. The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to grant 30 days ordinary leave without escort to petitioner's husband convict prisoner Mr.Vinoth, S/o.Kolanchi now confined in Cuddalore Central Prison, for the purpose repairing the damaged house and make financial



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arrangements for children studies in pursuance to petitioner's representation dated 12.12.2023.

For Petitioner :: Mr.M.Mohammed Saifullah
for Mr.P.Muthamizhselvakumar
For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner seeks grant of ordinary leave to her husband viz., Vinoth S/o.Kolanchi, who is a convict prisoner sentenced to undergo 3 years of rigorous imprisonment and confined in Cuddalore Prison. The reason assigned for the leave is for repairing the damaged house and for financial arrangement for the studies of their children.

2. In the Probation Officer's report dated 31.01.2024, it is stated that the house is in a damaged condition and the hut is now covered with tarpaulin sheet. It is also stated in the report that the children of the petitioner are studying in a school and they may require financial assistance for the studies.

3. The only objection in the Probation Officer's report is that the



injured person in the criminal case has made serious objection for grant of ordinary leave to the convict prisoner.

4. We are not in agreement with the reason assigned by the Probation Officer in this regard. The only report in this regard should touch upon the possibility of any apprehension to the life and liberty of the victim or a possible threat to the prisoner, if he comes out on leave, which aspect could have been verified with the concerned jurisdictional police and calling for objections from the affected persons, would not be appropriate.

5. By taking into account that the house of the petitioner is in a damaged condition and children also need financial assistance for their studies, we are of the view that the convict prisoner can be granted ordinary leave.

6. At this juncture, learned Additional Public Prosecutor submitted that though the petitioner has sought for 30 days ordinary leave, the convict prisoner is eligible for 21 days ordinary leave only and since a Special Leave Petition is pending before the Hon'ble Supreme Court against his



conviction and sentence, leave cannot be granted under the provisions of the
Tamil Nadu Suspension of Sentence Rules, 1982

7. As regards the above objection raised by the learned Additional Public Prosecutor, it is pertinent to mention the decision of the Coordinate Bench of this Court dated 29.09.2023, in W.P.(MD).No.6398 of 2023, in the case of ***Latha vs. Deputy Inspector General of Prison, Madurai***, wherein the respondents therein were directed to re-consider the petitioner's leave application, without reference to the pendency of the criminal appeal petition before the Hon'ble Supreme Court. Moreover, Rule 20 Sub Rule 1(i) of the Tamil Nadu Suspension of Sentence Rules provides for the grant of ordinary leave to a prisoner for making arrangements for the livelihood of his/her family for the settlement of life from the release. 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".

8. Therefore, considering the reasons for which ordinary leave is sought for and in exercise of our powers under Article 226 of the



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Constitution of India, we permit the petitioner's husband / Convict Prisoner i.e., Vinoth S/o.Kolanchi, bearing Convict No.16012 confined at Central Prison, Cuddalore to avail Ordinary Leave for a period of 21 days without escort, on the following conditions.

(i) The Convict Prisoner viz., Vinoth S/o.Kolanchi, bearing Convict No.16012, confined at Central Prison, Cuddalore, is granted Ordinary Leave for a period of 21 days i.e., from 19.02.2024 to 10.03.2024.

(ii) The Prisoner shall be released on 19.02.2024 at 10.00am and surrender before the Superintendent of Prisons, Central Prison, Cuddalore on 10.03.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Thittakudi Police Station, Cuddalore District, twice a week i.e., on every Monday and Thursday at 05.00pm, during the period of leave.

(iv) The Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

9. With the above directions, the Writ Petition stands allowed.



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13.02.2024 (M.S.R.,J.) (S.M.,J.)

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Index : Yes / No

Speaking / Non-Speaking Order

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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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5. The Public Prosecutor,
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