



W.P.No.1015 of 2024



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

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

Today, this matter is listed under the caption “for being mentioned”.

2.On consideration of the submission made, paragraph 8(ii) of the earlier order of this Court dated 06.02.2024 passed in W.P.No.1015 of 2024, shall stand deleted.

3.All other findings and observations made in the earlier order dated 06.02.2024, shall remain intact.

[M.S.R., J] [S.M., J]
15.02.2024

*(Note: Registry is directed to
carryout the above corrections
and issue revised order copy
to those concerned.)*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.1015 of 2024

Kothandaraman

... Petitioner

Vs.

The State represented by its,

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St.George, Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.

3.The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to grant ordinary leave of 40 days without escort to the detenu C.Selvakumar, S/o.Chinnanan, aged about 48 years, Convict No.14559, confined at Central Prison, Trichy.

For Petitioner : Mr.S.Manoharan

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, who is the brother of the convict prisoner namely C.Selvakumar, S/o.Chinnanan, aged about 48 years, now confined in Central Prison, Trichy, has come forward with this petition, seeking for grant of 40 days ordinary leave to his brother.

2. The case of the petitioner is that his brother is a life convict prisoner, bearing Convict No.14559, who was convicted and sentenced to undergo 1 year rigorous imprisonment for the offence under Section 148 of IPC, to undergo 1 month simple imprisonment for the offence under Section 341 of IPC, to undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo rigorous imprisonment for 2 years each for every count for the offence under Section 302 (5 counts) of IPC and to undergo rigorous imprisonment for 1 year for the offence under Section 3 of the Explosives Act, by the learned I Additional Sessions Judge, Salem in S.C.No.34 of 1999 dated 20.10.2004. The detenu has been serving the sentence in the prison for more than 22 years.



3. The case of the petitioner is that the petitioner and his family facing economic and financial hardships and therefore, they have decided to partition the property, which is in the name of his father and that the presence of the detenu is required for execution of the partition, as the same cannot take place without his consent and presence. The petitioner has also given a representation to the respondents on 07.12.2023, requesting to grant 40 days ordinary leave to his brother. Since there was no positive response from the respondents, he has filed the present Writ Petition.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

5. The learned counsel for the petitioner submitted that since the detenu has served the sentence for more than 22 years, he is eligible for ordinary leave under Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982. The learned counsel further submitted that a life convict prisoner, who has already undergone the lesser sentences, would be eligible for being considered for premature release in respect of the life sentence for the offence under Section 302 IPC and the same has been observed by the Hon'ble Supreme Court in the case of '*State of Tamil Nadu & others Vs. P.Veera Bhaarithi*'. Moreover, Rule 20 Sub Rule (i) (v) and (vii) 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 and for the settlement of life after release, settling family disputes like partition etc., and any other extraordinary reason.

6. Though the petitioner herein sought for 40 days of Ordinary Leave, the learned Additional Public Prosecutor, on instructions, submitted that the detenu is eligible only for 21 days of Ordinary Leave.

7. Since the petitioner needs his brother's presence for the execution of partition of the property, we are convinced that the detenu may require atleast 21 days for settling the property. 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.

8. In the light of the above observations and also by taking into consideration that the Probation Officer's Report is in favour of the detenu, the detenu is granted ordinary leave for a period of 21 days, with minimum escort (preferably 3 Constables), commencing from 09.02.2024 till 29.02.2024, on the following conditions:-

(i) the respondents are directed to grant Ordinary Leave to the



detenu, C. Selvakumar, aged 48 years, S/o.Chinnanan, Convict No.14559, for a period of 21 days, with minimum escort (preferably 3 Constables), commencing from 09.02.2024 to 29.02.2024;

(ii) The detenu is directed to report before the Inspector of Police, J-4, Kotturpuram Police Station, Chennai, twice a week, i.e. Monday and Thursday at 10.30 A.M., during the period of leave;

(iii) After expiry of the ordinary leave, the detenu shall surrender before the third respondent herein, on 29.02.2024 before 05.00 p.m;

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

9. With the above directions, the Writ Petition is partly allowed. There shall be no order as to costs.

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

06.02.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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Note: Issue Order Copy on 08.02.2024.



To

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St.George, Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.

3.The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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