



WEB COPY



W.P.No.1702 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.1702 of 2024

Archana

...Petitioner/Wife of Detenu

vs.

The State represented by its

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

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

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

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order bearing No.106/Mu.Vu./2023 dated 26.12.2023, passed by the 2nd respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 30 days without escort to the detenu, Vijay S/o.Balakrishnan, aged about 34 years, Convict No.24420, confined at Central Prison, Trichy.



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For Petitioner :: Mr.S.Manoharan
For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

This writ petition has been filed by the wife of the detenu, for a direction to the respondents to grant ordinary leave for 30 days without escort to her husband viz., Vijay S/o.Balakrishnan, aged about 34 years, Convict No.24420, confined at Central Prison, Trichy.

2. The petitioner viz.Archana, is the wife of the life convict by name Vijay S/o.Balakrishnan, aged about 34 years, Convict No.24420, confined at Central Prison, Trichy. She sought for leave for her husband under Section 20(i), (vii) of Tamilnadu Suspension of Sentence Rules, 1982. As the respondents, rejected her representation dated 11.12.2023 vide impugned order dated 26.12.2023, the petitioner has filed this writ petition, seeking 30 days leave for her husband/Convict Prisoner, without escort.

3. The learned counsel for the petitioner submitted that the petitioner



is a cancer patient and she is having a three year old daughter. For taking further treatment, for mobilising funds and also for looking after her daughter, she requires the presence of her husband/convict prisoner. Therefore, the learned counsel for the petitioner prayed for grant of ordinary leave to the petitioner's husband/convict prisoner.

4. The learned Additional Public Prosecutor submitted that though the petitioner's husband is eligible for 21 days leave, since he was convicted for the offences under Section 8(C) r/w 20(b)(ii)(c) of NDPS Act, the petitioner's representation was rejected by the respondents. He further produced before this Court the Probation Officer's report dated 13.02.2024, wherein it is admitted that the petitioner is affected by a rare type of cancer viz., VHL (Von Hippel Lindau Syndrome); that a surgery has been performed to remove the lump in her right eye; and that she has to get admitted in JIPMER Hospital for further treatment. The Probation Officer's report further states that there is no life threat to the convict prisoner.

5. This Court can exercise its prerogative power in the matter of granting ordinary leave having regard to the peculiar facts in any case. In



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this case, as the petitioner is suffering from cancer and in view of the positive report of the Probation Officer dated 13.02.2024, we permit the petitioner's husband/convict prisoner to avail leave for a period of 21 days without escort, on the following conditions.

(i) The Convict Prisoner viz., Vijay S/o.Balakrishnan, aged about 34 years, Convict No.24420, confined at Central Prison, Trichy, 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, Trichy on 10.03.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Ganesh Nagar Police Station, Pudukottai twice a week i.e., on every Tuesday 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.

6. With the above directions, the Writ Petition stands disposed of.



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(M.S.R.,J.)

(S.M.,J.)

13.02.2024

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Index : Yes / No

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

Issue order copy by 15.02.2024.



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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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2. The Deputy Inspector General of Prison,
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