



WEB COPY



W.P.No.1349 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.1349 of 2024

Saroja

... Petitioner

Vs.

The State represented by its

1.The Deputy Inspector General of Prison,
Coimbatore Zone, Coimbatore.

2.The Superintendent,
Central Prison,
Coimbatore.

... 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 for 30 days without escort to the detenue, Balamurugan, S/o.Sethupandiyan, aged about 31 years bearing Convict No.23071 at Central Prison, Coimbatore.

For Petitioner : Mr.P.Bakiyaraj

For Respondents : Mr.E. Raj Thilak,
Additional Public Prosecutor



W.P.No.1349 of 2024

ORDER

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

The petitioner's son is a life convict, who has been undergoing life imprisonment at Central Prison, Coimbatore from 16.04.2021 onwards. Her husband had died on 09.01.2024. In the present Writ Petition, she seeks for grant of ordinary leave to enable her son to participate in the ceremonies following the death of her husband, which is scheduled to be held on 23.01.2024.

2. We have taken into consideration of the fact that the petitioner's son did not attend the final rites of his father on 09.01.2024. The only objection that has been raised on behalf of the learned Additional Public Prosecutor is that since the life convict has not completed three years of imprisonment, he would not be entitled for grant of ordinary leave, in view of Rule 22(c) of the Tamil Nadu Suspension of Sentence Rules 1982. The learned Additional Public Prosecutor also submitted that under Rule 6 of the said Rules, attending the ceremonies that follows the death of the family member is not a ground provided for and therefore, the petitioner is not entitled for the relief.



W.P.No.1349 of 2024

WEB COPY

3. It is no doubt true that Rule 6 does not provide for grant of emergency leave to the prisoner for the purpose of attending the ceremonies of the death of a family member. However, this Court, in several of its earlier decisions, have held that the provisions under Rule 6 is not mandatory in nature but rather directory, in view of Rule 40 which grants power to the Government for exemption of certain provisions of these rules. In this background, this Court had passed orders by invoking its extraordinary powers under Article 226 of the Constitution of India, for granting emergency leave, in cases, where the prayer sought for is one for granting ordinary leave.

4. By taking into account that the petitioner's son had not attended the death of his father and performed the last rites, we are inclined to consider the case of the petitioner favourably, by modifying the prayer sought for in the present Writ Petition into one of an emergency leave.

5. Accordingly, there shall be a direction to the second respondent herein, to forthwith pass orders, granting emergency leave to the



W.P.No.1349 of 2024

petitioner's son, for a period of 6 days, commencing from 10.00 am on 23.01.2024 to 5 pm on 30.01.2024. On expiry of the emergency leave without escort, the detenu shall serve life conviction, as well as surrender before the prison authorities. During the period of this emergency leave, the petitioner's son shall report before the Thiruvadanai Police Station, Ramanathapuram District, everyday at 10.30 am.

6. With the above directions, the Writ Petition stands allowed. No costs.

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

22.01.2024

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

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Note: Issue Order Copy Today.



W.P.No.1349 of 2024

To
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1.The Deputy Inspector General of Prison,
Coimbatore Zone, Coimbatore.

2.The Superintendent,
Central Prison,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.



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

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