



W.P.No.1847 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.1847 of 2024

Sountherya

...Petitioner

VS.

1.The Inspector General of Prisons,
Whannels Road,
Egmore,
Chennai-600 008.

2.The Superintendent of Prisons
Central Prison,
Salem.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 04.11.2023 made in No.23199/TK3/2023 on the file of the Superintendent of Prisons, Central Prison, Salem, the second respondent herein and quash the same and consequently, direct the second respondent to grant 30 days leave to the petitioner's husband viz., Deepak @ Ram Deepak lodged in Central Prison, Salem.



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W.P.No.1847 of 2024

For Petitioner : Mr.R.Rajan
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's request for grant of 30 days of ordinary leave for her husband viz., Deepak @ Ram Deepak, confined at Central Prison, Salem, who is undergoing imprisonment at Central Prison, Salem, was rejected through the impugned order dated 04.11.2023 on the ground that since two criminal cases against him were pending trial before the criminal Courts at Salem, he could not be granted leave in view of Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982. Challenging the said order, the present Writ Petition has been filed.

2.Heard the learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for the respondents.



W.P.No.1847 of 2024

WEB COPY

3. According to the learned counsel for the petitioner, the prisoner's mother has severe medical ailments, and therefore, for the purpose of arranging funds for the medical expenditure, the presence of the prisoner is imminent in their house. Hence, he prayed for grant of 30 days of ordinary leave to the petitioner's husband.

4. Learned Additional Public Prosecutor produced a copy of the Probation Officer's report dated 08.02.2024, which confirms that the prisoner's mother is undergoing a medical ailment. He stated that the reason assigned in this regard by the petitioner in her representation, that the presence of her husband is required for arranging funds for the medical treatment, is genuine. This apart, the Probation Officer has also stated that the prisoner was earlier granted ordinary leave during which period he had maintained good behaviour.

5. It is true that Rule 35 prohibits for grant of leave to a prisoner on whom cases are pending trial. However, this provision cannot be termed as an absolute bar or mandatory in nature, since Rule 40 empowers the Government to exempt any person from this Rule. Even otherwise, when the Probation Officer, in his



W.P.No.1847 of 2024

report, has confirmed the medical ailment of the prisoner's mother as well his physical presence for arranging funds for the treatment is genuine, we are of the view that the petitioner's request can be considered favourably.

6. Thus, in exercise of our powers under Article 226 of the Constitution of India, we permit the petitioner's husband viz., Deepak @ Ram Deepak, confined at Central Prison, Salem to avail Ordinary Leave for a period of 28 days, without escort, on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., , on Ordinary Leave for a period of 28 days i.e., from 18.03.2024 to 15.04.2024.

(ii) The Convict Prisoner shall be released on 18.03.2024 at 10.00 am and surrender before the Superintendent of Prison, Central Prison, Salem, on 15.04.2024 at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Hastaampatty Police Station, Salem District, twice a week i.e., on every Monday and Thursday at 10.30 a.m, during the period of leave.

(iv) The Convict Prisoner shall utilize the leave only for



W.P.No.1847 of 2024

the ground on which it has been granted and shall not indulge in any other activities.

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7. With the above directions, the writ petition stands allowed.

(M.S.R.,J.) (S.M.,J.)
12.03.2024

Anu
Index:yes/no
Internet:yes/no

Note: Issue Order copy on 15.03.2024

To
1.The Inspector General of Prisons,
Whannels Road,
Egmore,
Chennai-600 008.

2.The Superintendent of Prisons
Central Prison,
Salem.

3.The Public Prosecutor
Madras High Court.



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W.P.No.1847 of 2024

M.S.RAMESH, J

and

SUNDER MOHAN, J

Anu

W.P.No.1847 of 2024

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