



W.P.No.2112 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM :

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

W.P.No.2112 of 2024

Kanimozhi

...Petitioner/Wife of the detenu

VS.

The State represented by its,

1. The Secretary to Government of Tamil Nadu,
Home Department,
(Prison Branch – IV)
Fort.St.George,
Chennai – 600 009.
2. The Deputy Inspector of General of Prison,
Trichy Range,
Trichy – 620 020.
3. The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

...Respondents



W.P.No.2112 of 2024

Prayer: 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 22.12.2023, passed by the 2nd respondent and quash the same and consequently, direct the respondents to grant ordinary leave for 30 days without escort to the detenu, Rajan S/o.Moorthi, aged about 32 yeas Convict No.23768, confined at Central Prison, Trichy.

For Petitioner :: Dr.S.Manoharan
For Respondents :: Mr.E.Raj Thilak
 Additional Public Prosecutor
 Assisted by
 Mr.Aravind.C

ORDER

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

The petitioner's request for grant of ordinary leave has been rejected through the impugned order bearing No.1106/Mu.Vu/2023 dated 22.12.2023, predominately on the ground that Convict Prisoner is involved in an offence under Section 396 of the IPC, which stands as a bar for grant of ordinary leave under Rule 21 (b) of the Tamil Nadu Suspension of Sentence Rules, 1982. The further reason assigned in the impugned order is that he is not eligible for grant of ordinary leave in view of the period of



W.P.No.2112 of 2024

sentence undergone by him, as stipulated under Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982, stating that he has not completed three years of sentence period.

2. Strictly speaking, the reasons assigned in the impugned order cannot be found fault with. However before this Court, the petitioner/wife of the convict prisoner has filed an affidavit stating that she has a son and a daughter, who are pursuing seventh standard and second standard respectively; that her husband who was the only sole bread winner of the family, is not there to support them. She has also stated that his physical presence is required for arranging funds for the education expenses of his children, payment of house rent and for the household expenses. With a meagre income which the petitioner is managing, she finds it very difficult to support the expenses for her family, more particularly her children's education.

3. We had directed the learned Additional Public Prosecutor to obtain the Probation Officer's report with regard to the claim made by the



W.P.No.2112 of 2024

petitioner in her affidavit. Consequently, through a report dated 06.02.2024, the Probation Officer has stated that the reasons for which the petitioner seeks for grant of ordinary leave for her husband are genuine and further added that the petitioner's husband has not met his minor children for the past three years.

4. In this background, we are of the view that the powers of this Court under Article 226 of the Constitution of India, could be invoked for the purpose of directing the respondents to release the petitioner on ordinary leave without escort for a period of thirty days.

5. Accordingly, this writ petition is allowed and the petitioner's husband/convict prisoner i.e., Rajan S/o.Moorthi, aged about 32 years bearing Convict No.23768, confined at Central Prison, Trichy to avail Ordinary Leave for a period of 30 days without escort, on the following conditions.

(i) Respondents are directed to release the Prisoner viz., Rajan S/o.Moorthi, aged about 32 years



bearing Convict No.23768, confined at Central Prison, Trichy, on Ordinary Leave for a period of 30 days i.e., from 24.02.2024 to 24.03.2024.

(ii) The Prisoner shall be released on 24.02.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Trichy, on 24.03.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Tamil University Police Station, Thanjavur District, twice a week i.e., Monday and Thursday at 05.00 p.m., 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 allowed.

(M.S.R.,J.) (S.M.,J.)
21.02.2024

dk

Index : Yes / No

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

Note: Issue order copy on 22.02.2024.

Upload the order copy forthwith.



W.P.No.2112 of 2024

Copy to:-

1. The Secretary to Government of Tamil Nadu,
Home Department,
(Prison Branch – IV)
Fort. St.George,
Chennai – 600 009.
2. The Deputy Inspector of General of Prison,
Trichy Range,
Trichy – 620 020.
3. The Superintendent of Prisons,
Trichy Central Prison,
Trichy – 620 020.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P.No.2112 of 2024

M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

dk

W.P.No.2112 of 2024

21.02.2024