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W.P. No.2254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.2254 of 2024

Mathi @ Mathiyalagan

...Petitioner

Vs.

1. The State represented by its,
The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Gandhipuram-18.
2. The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore 18

... Respondents

Prayer :- Writ Petition filed under Section 226 of the Constitution of India praying to issue a writ of certiorarified Mandamus to call for the records pertains to the impugned order in 12608/Tha.ku.3/2023 dated 11.12.2023 passed by the 2nd respondent and quash the same and grant 40 days Ordinary leave without escort to the petitioner/Convict Prisoner namely Mathi @ Mathiyalagan, S/o.Sitha Gounder, who is confined in 2nd respondent.

For Petitioner : Mr. M. Mohammed Saifulla

For Respondents : Mr.E. Raj Thilak

Additional Public Prosecutor

Assisted by Mr. Aravind, C.



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ORDER

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

The petitioner's request for grant of ordinary leave has been rejected through the impugned order bearing No.12608/Tha.ku.3/2023 dated 11.12.2023, 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.

2. Strictly speaking, the reasons assigned in the impugned order cannot be found fault with. However before this Court, the petitioner/convict prisoner has filed an affidavit stating that a portion of his house is dilapidated and he has to arrange funds for repairing the house.

3. We had directed the learned Additional Public Prosecutor to obtain the Probation Officer's report with regard to the claim made by the petitioner in his affidavit. Consequently, through a report dated 09.02.2024, the Probation Officer has stated that the reasons for which the petitioner seeks for grant of ordinary leave are genuine.



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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 forty days.

5. Accordingly, this writ petition is allowed and the petitioner/convict prisoner i.e., Mathi @ Mathiyalagan, S/o. Sitha Gounder, aged about 49 years bearing Convict No.11206, confined at Central Prison, Coimbatore, is to avail Ordinary Leave for a period of 40 days without escort, on the following conditions:

(i) Respondents are directed to release the Prisoner viz., Mathi @ Mathiyalagan, S/o. Sitha Gounder, aged about 49 years bearing Convict No.11206, confined at Central Prison, Gandhipuram, Coimbatore-18, on Ordinary Leave for a period of 40 days i.e., from 27.02.2024 to 06.04.2024.

(ii) The Prisoner shall be released on 27.02.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Coimbatore, on 06.04.2024 at 05.30 p.m.



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(iii) The Prisoner is directed to report before the Inspector of Police, Annadanapatti Police Station, Salem 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.)
23.02.2024

bga

Internet : Yes

Index : Yes / No

Note: Issue Order copy on 26.02.2024

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To

1. The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Gandhipuram-18.
2. The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore 18.
3. The Inspector of Police,
Annadanapatti Police Station,
Salem District.
4. The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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