



W.P.No.2427 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2024

CORAM :

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

W.P.No.2427 of 2024

Mrs.Sudha Velmani

...Petitioner

vs.

- 1.The State rep by its,
The Secretary to Government of Tamil Nadu,
Home Department, Fort. St. George,
Secretariat, Chennai – 600 009.
- 2.The Deputy Inspector General of Prison,
Trichy Zone, Trichy Central Prison, Trichy.
- 3.The Superintendent,
Trichy Central Prison, Trichy.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to grant 40 days leave to the convict/petitioner's brother namely Mr.Sakthi @



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Sakthivel S/o.Palanisamy aged about 42 years in pursuance of the petitioner's representation dated 03.01.2024.

For Petitioner :: Mr.M.Mohamed Saifulla

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
Assited by
Mr.C.Aravind

ORDER

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

This writ petition has been filed to direct the respondents to grant 40 days ordinary leave to the petitioner's brother/Convict Prisoner namely Sakthi @ Sakhivel S/o. Palanisamy aged about 42 years, Convict No.23598, confined at Central Prison, Trichy by considering the petitioner's representation dated 03.01.2024.

2. Through earlier orders of this Court passed in W.P.No.26199 of 2023, the petitioner's brother was granted ordinary leave from 10.11.2023 to 30.11.2023 with a condition that the cost of the escort was to be borne by the petitioner herein.



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3. In the subsequent modification petition filed, the cost was restricted to a maximum of Rs.20,000/-. The present grievance of the petitioner is that when she had sought for subsequent leave for her brother based on her representation dated 03.01.2024, the respondents had raised objections, stating that she was eligible for leave since an appeal was pending before the Hon'ble Supreme Court and also that she had failed to pay the cost of the escort.

4. In so far as the pendency of the appeal before the Hon'ble Supreme Court, which is quoted as an embargo for grant of ordinary leave is concerned, a Coordinate Bench of this Court through its order dated 29.09.2023 passed in W.P.(MD).No.6398 of 2023, in the case of ***Latha vs. Deputy Inspector General of Prison, Madurai***, had directed the respondents therein to re-consider the petitioner's leave application, without reference to the pendency of the criminal appeal petition before the Hon'ble Supreme Court. Moreover, Rule 20 Sub Rule 1(i) of the Tamil Nadu Suspension of Sentence Rules provides for the grant of ordinary leave to a prisoner for making arrangements for the livelihood of his/her family for the



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settlement of life from the release. It would be pertinent to point out that Rule 20 (vii) of the Rules provides for grant of ordinary leave to a prisoner for "any extraordinary reason".

5. In the light of the aforesaid order passed, we are inclined to grant leave to the petitioner's brother/Convict Prisoner, even though an appeal is pending before the Hon'ble Supreme Court. Now that the petitioner has paid the cost of Rs.20,000/- as ordered in W.M.P.No.4201 of 2024 in W.P.No.26119 of 2023, the respondents may not have any grievance over this objection also.

6. Mr.E.Raj Thilak, learned Additional Public Prosecutor, has produced the copy of the Probation Officer's report dated 27.02.2024, in which the Probation Officer had made favourable recommendation for grant of leave to the petitioner's brother for the present spell. He further submitted that the petitioner's brother/Life Convict would otherwise be entitled for ordinary leave for 20 days.



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7. In consideration of the reasons for which the ordinary leave is sought for and in exercise of our powers under Article 226 of the Constitution of India and by also by taking into consideration of the Probation Officer's positive report, there shall be a direction to the prison authorities to grant ordinary leave to the petitioner's brother/Convict Prisoner i.e. Sakthi @ Sakthivel S/o.Palanisamy, aged about 42 years, bearing Convict No.23598 confined at Central Prison, Trichy, for a period of 20 days without escort, on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., Sakthi @ Sakthivel S/o.Palanisamy, aged about 42 years, bearing Convict No.23598 confined at Central Prison, Trichy, on ordinary leave for a period of 20 days i.e., from 14.03.2024 to 02.04.2024.

(ii) The Convict Prisoner shall be released on 14.03.2024 at 10.00 a.m. and surrender before the Superintendent of Prison, Trichy Central Prison, on 02.04.2024 at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Kumaralingam Police Station, Thirupur District, twice a week i.e., on every Monday and Thursday at 05.00 p.m., during the period of leave.



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(iv) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

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

(M.S.R.,J.)

(S.M.,J.)

11.03.2024

dk

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

Note to Registry:

1.Issue order copy by 13.03.2024.

2.Upload the order copy forthwith.



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Copy to:-

1. The Secretary to Government of Tamil Nadu,
Home Department, Fort. St. George,
Secretariat, Chennai – 600 009.
2. The Deputy Inspector General of Prison,
Trichy Zone, Trichy Central Prison, Trichy.
3. The Superintendent,
Trichy Central Prison, Trichy.
4. The Public Prosecutor,
High Court, Madras.



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