



W.P. No.3119 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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V.Durgadevi

... Petitioner/wife of the detenu
Vs.

1. The State represented by its,
The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai – 600 009.
2. The Director Inspector General of Prison,
Central Prison, Coimbatore,
Coimbatore – 641 018.
3. The Superintendent,
Central Prison Coimbatore,
Coimbatore – 641 018.

... 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 pertaining to the impugned order bearing No.31/Tha.Ku.3/2023 dated 04.01.2024 passed by the 3rd respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 30 days



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without escort to Varadarajan S/o. Meenakshi Suntharam, aged about 36 years. Life Convict No.24429 detained at Central Prison, Coimbatore.

For Petitioner : Mrs. K.Akshaya

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

ORDER

(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.31/Tha.Ku.3/2023 dated 04.01.2024, predominately on the ground that Convict Prisoner is involved in an offence under Section 392 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/wife of the convict prisoner has filed an affidavit stating that Convict Prisoner's presence is required for the purpose of making arrangements of financial aid



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for education for their son.

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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 her affidavit. Consequently, through a report dated 23.02.2024, the Probation Officer has stated that the reason for which the petitioner seeks for grant of ordinary leave, is genuine.

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 twenty-one days.

5. Accordingly, this writ petition is allowed and the petitioner's husband/convict prisoner i.e., Varadarajan S/o.Meenakshi Suntharam, aged about 36 years bearing Convict No.24429, confined at Central Prison, Coimbatore, is to avail Ordinary Leave for a period of 21 days without escort, on the following conditions:



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(ii) The Prisoner shall be released on 29.02.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Coimbatore, on 20.03.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Sulur Police Station, Coimbatore 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.)
26.02.2024



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Internet : Yes

Index : Yes / No

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Note: Issue Order copy on 27.02.2024

Upload the order copy forthwith

To

1. The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai – 600 009.
2. The Director Inspector General of Prison,
Central Prison, Coimbatore,
Coimbatore – 641 018.
3. The Superintendent,
Central Prison Coimbatore,
Coimbatore – 641 018
4. The Public Prosecutor,
High Court, Madras.



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

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