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W.P.No.4105 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM :

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

W.P.No.4105 of 2024

Rasool Maydeen

...Petitioner

vs.

1.The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai – 600 008.

2.The Superintendent of Prisons,
Central Prison – I,
Puzhal, Chennai – 600 066.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to grant ordinary leave for 28 days by considering the representation of the petitioner dated 23.01.2024 namely Rasool maydeen S/o. Shajahan aged about 39 years, Convict Prisoner, Convict No.7199, Central Prison, Puzhal.

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



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ORDER

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

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2. Learned counsel for the petitioner submitted that since the parents of convict prisoner had passed away, he had to make arrangements for his marriage. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of ***Dadu Alias Tulsidas vs. State of Maharashtra*** reported in ***(2000) 8 Supreme Court Cases 437*** in support of her submission that Section 8(c) r/w 29, 8 (c) r/w 21, (c) 8 (c) r/w 28 and 8 (c) r/w 23 (c) of the NDPS Act would not affect the powers of the authorities to grant parole. Considering the said decision, a Coordinate Bench of this Court in W.P. No.22285 of 2023, had granted leave to the convict prisoner in exercise of powers under Article 226 of the Constitution of India. Therefore, she seeks for grant of ordinary leave to the petitioner.



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3. Mr.E.Raj Thilak, learned Additional Public Prosecutor submitted the petitioner/convict prisoner was convicted for the offences under Section 8(c) r/w 29, 8 (c) r/w 21, (c) 8 (c) r/w 28 and 8 (c) r/w 23 (c) of the NDPS Act, otherwise the prisoner was eligible for 28 days of ordinary leave. He further produced before this Court the Probation Officer's report dated 21.02.2024, wherein it is stated that earlier when the prisoner had come out on ordinary leave, his conduct was good and had accordingly recommended for grant of ordinary leave. The Probation Officer's report further states that there is no life threat to the convict prisoner.

4. This Court can exercise its prerogative power in the matter of granting ordinary leave having regard to the peculiar facts in any case. In this case, both his parents had passed away and earlier when the petitioner was granted ordinary leave, he was escorted by eleven (11) policemen owing to which, he could not make effective arrangements for his marriage. Further, in view of the positive report of the Probation Officer dated 21.02.2024, we permit the petitioner/convict prisoner to avail leave for a period of 28 days without escort, on the following conditions.



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(i) The Convict Prisoner viz., Rasool Maydeen S/o.Shajahan, aged about 39 years, Convict No.7199, confined at Central Prison, Puzhal, is granted Ordinary Leave for a period of 28 days i.e., from 11.03.2024 to 07.04.2024.

(ii) The Prisoner shall be released on 11.03.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Puzhal on 07.04.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Uchipuli Police Station, Ramanathapuram, twice a week i.e., on every 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.

5. With the above directions, the Writ Petition stands allowed.

(M.S.R.,J.) (S.M.,J.)
07.03.2024

dk

Index : Yes / No

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

Issue order copy by 08.03.2024.

Upload the order copy forthwith.



W.P.No.4105 of 2017.

Copy to:-

1. The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai – 600 008.
2. The Superintendent of Prisons,
Central Prison – I,
Puzhal, Chennai – 600 066.
3. The Superintendent,
Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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