



W.P.No.4130 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.4130 of 2024

Wasib Khan

...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 24.01.2024 namely Wasib Khan S/o. Liaquat ali aged about 41 years, Convict Prisoner, Convict No.7807, Central Prison, Puzhal.



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

ORDER

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

This writ petition has been filed by the Convict Prisoner namely Washib Khan S/o.Liaquat ali, aged about 41 years, Convict No.7807 confined at Central Prison, Puzhal, for a direction to the respondents to grant him ordinary leave for a period of 28 days, without escort by considering the representation dated 24.01.2024.

2. 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 22(c), 8 (c) r/w 29, 8 (c) r/w 27 A and 8 (c) r/w 23 (c) r/w 28 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



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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 Sections 8 (c) r/w 22(c), 8 (c) r/w 29, 8 (c) r/w 27 A and 8 (c) r/w 23 (c) r/w 28 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 he has favourably recommended for grant of ordinary leave but with escort. In his report, it is also seen that the prisoner has not been granted any leave earlier. While that being so, we are unable to comprehend as to why the necessity of escort is required, when his conduct and behaviour inside the prison also is not adverse. Accordingly, we are of the view that the petitioner could be granted ordinary leave without escort.

4. In view of the positive report of the Probation Officer dated 21.02.2024 and considering the facts and circumstances of this case, this Court in exercise of its prerogative power in the matter of granting ordinary leave, permit the petitioner/convict prisoner to avail leave for a period of 28



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days without escort, on the following conditions.

(i) The Convict Prisoner viz., Wasib Khan S/o. Liaquat Ali, aged about 41 years, Convict No.7807, confined at Central Prison, Puzhal, is granted Ordinary Leave for a period of 28 days i.e., from 28.03.2024 to 24.04.2024.

(ii) The Prisoner shall be released on 28.03.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Puzhal on 24.04.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Ilayangudi Police Station, Sivagangai District, 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

Index : Yes / No
Speaking / Non-Speaking Order
Neutral Citation : Yes / No



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Issue order copy by 15.03.2024.

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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 Public Prosecutor
High Court of Madras.



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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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