



W.P.No.5008 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.5008 of 2024
and W.M.P.No.5499 of 2024

Malathi

... Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai – 600 009.

2.The Deputy General of Prison (DIG),
Vellore Range,
Vellore – 632 002.

3.The Superintendent,
Cuddalore Central Prison,
Cuddalore – 607 401.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order bearing



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No.1350/Mu.Vu/2024, dated 03.02.2024 passed by the 2nd respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 30 days without escort to the detenu Sundarajan, S/o.Sundaramoorthy, aged about 38 years, Convict No.16232, confined at Central Prison, Cuddalore.

For Petitioner : Dr.S.Manoharan

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

ORDER

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

The petitioner's request for grant of ordinary leave to her husband has been rejected through the impugned order bearing No.1350/Mu.Vu/2024, dated 03.02.2024, predominately on the ground that Convict Prisoner is involved in an offence under Section 392 of 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 reason assigned in the impugned order cannot be found fault with. However before this Court, the petitioner/wife



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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 for the petitioner's medical expenses as she is suffering from fibrocystic disease.

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 19.03.2024, 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 28 days.

5. Accordingly, the impugned order dated 03.02.2024 passed by the second respondent in No.1350/Mu.Vu/2024, is hereby quashed. Consequently, the respondents are directed to release the convict prisoner



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namely Sundarajan, S/o.Sundaramoorthy, aged about 38 years, Convict No.16232, confined at Central Prison, Cuddalore, **“without escort”** for a period of 28 days commencing from 27.03.2024 to 23.04.2024, with a further condition to the convict prisoner that he shall report before the jurisdictional Police i.e. Vallavanur Police Station, Villupuram District, twice a week on Mondays and Thursdays at 05.00 pm, during the period of leave. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 24.04.2024 before 10.00 a.m. The prisoner shall utilize the leave only for the purpose for which it has been granted and shall not indulge in any other activities.

6. With the above direction, the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

[M.S.R., J]

[S.M., J]

22.03.2024

Index: Yes/No

Speaking/Non-speaking order

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Note: Issue Order Copy on 26.03.2024.



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To

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai – 600 009.

2.The Deputy General of Prison (DIG),
Vellore Range,
Vellore – 632 002.

3.The Superintendent,
Cuddalore Central Prison,
Cuddalore – 607 401.

4.The Public Prosecutor,
High Court, Madras.



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