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W.P.No.6489 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HON'BLE MR. JUSTICE M.S.RAMESH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.No.6489 of 2024
and
W.M.P.No.7215 of 2024

Sivakumar

...Petitioner

VS.

1.The State by:
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3. The Superintendent of Prisons
Central Prison – 1,
Puzhal, Chennai – 600 066.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India,



W.P.No.6489 of 2023

praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in the order date on 22.01.2024 bearing no.336/tha.ku.2/2023 passed by respondent no.3 and quashing the same, and directing to grant ordinary leave and release the petitioner namely Sivakumar S/o. Periyasamy aged 46 years, Convict Prisoner, Central Prison, Puzhal.

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 Sivakumar S/o.Periyasamy, aged about 46 years, Convict No.9926 confined at Central Prison, Puzhal, for a direction to the respondents to grant him ordinary leave.

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) 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



W.P.No.6489 of 2024

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.

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) of the NDPS Act, otherwise the prisoner was eligible for 21 days of ordinary leave. The learned Additional Public Prosecutor further produced the Probation Officer's report dated 21.03.2024, in which it is stated that the Convict Prisoner is eligible for ordinary leave. However, the Probation Officer has recommended for grant of ordinary leave with escort.

4. We do not ratify the reasons assigned by the Probation Officer for a grant of ordinary leave with escort. However, if the prisoner is directed to report before the jurisdiction of police at least twice in a week, the ends of justice may be secured.

5. Therefore, in view of the positive report of the Probation Officer dated 21.03.2024 and also by taking note of the fact that the



W.P.No.6489 of 2024

Convict Prisoner is eligible for the grant of ordinary leave for a period of 21 days, we are inclined to allow the writ petition.

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6. Accordingly, we permit the petitioner/Convict prisoner viz., Sivakumar S/o.Periyasamy, aged 46 years, bearing Convict No.9926 to avail leave for a period of 21 days without escort, on the following conditions.

(i) Respondents are directed to release the Convict prisoner viz., Sivakumar S/o.Periyasamy, aged 46 years, Convict No.9926 confined at Central Prison, Puzhal, on Ordinary Leave for a period of 21 days i.e., from 01.04.2024 to 21.04.2024.

(ii) The Prisoner shall be released on 01.04.2024 at 10.00 a.m. and surrender before the Superintendent of Prisons, Central Prison, Puzhal on 21.04.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, Chinna Salem, Police Station, Kallakurichi 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.

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

Consequently, the connected miscellaneous petition is closed.



WEB COPY



W.P.No.6489 of 2024

(M.S.R.,J.) (S.M.,J.)
27.03.2024

Index : Yes / No

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

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Note to Registry:

Issue order copy by 28.03.2024.

Upload the order copy forthwith.

Copy to:-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
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3. The Superintendent of Prisons
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- 4.The Public Prosecutor
High Court of Madras.



WEB COPY



W.P.No.6489 of 2024

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