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W.P.No.6382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.6382 of 2024

Vijayalakshmi

... Petitioner

Vs.

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

2.The Deputy Inspector of General of Prison,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.

3.The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to grant ordinary leave of 30 days without escort to the detenue,



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Ezhilarasan, S/o.Arulsamy, aged about 31 years, Convict No.22765,
confined at Central Prison, Trichy.

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, who is the wife of the convict namely Mr.Ezhilarasan, S/o.Arulsamy, aged about 31 years, now confined in Central Prison, Trichy, has come forward with this petition, seeking for grant of 30 days ordinary leave to her husband.

2. The case of the petitioner is that her husband is a convict prisoner, bearing Convict No.22765, who was convicted for the offence under Section 450 and 506(1) of IPC and under Section 3 r/w 4 of POCSO Act and for the offence under Section 450 IPC and was sentenced to undergo 3 years of RI and to a fine of Rs.3000/- and in default, to undergo 1 year of SI and for the offence u/s. 506(1), sentenced to undergo



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1 year of RI and pay a fine of Rs.2,000/- and in default, to undergo 6 months of SI and for the offence u/s.3 r/w 4 of POCSO Act, sentenced to undergo 10 years of RI and to pay a fine of Rs.5,000/- and in default, to undergo 3 years of RI by the Mahila Court, Perambalur in Special S.C.No.7 of 2018 dated 24.08.2018. The detenu has been serving the sentence in the prison for more than seven years.

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 02.04.2024, the Probation Officer has rejected the claim of the petitioner on the ground that there is no emergency medical treatment required for the prisoner's mother. Further, while admitting that the prisoner's two children are studying in 4th and 5th standards respectively, he had stated that they are studying the in the said school free of cost and hence, the prisoner's presence is not required to make financial arrangements to pay the school fees for the children.



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4. Though the school education may be free, there may be many incidental expenses touching upon the children's education that may arise, for which the presence of the prisoner, for making the financial arrangements, will be required. Therefore, we reject the reasoning adopted by the Probation Officer in his report dated 02.04.2024.

5. The learned Additional Public Prosecutor, on instructions, submitted that the prisoner may be otherwise entitled for 28 days ordinary leave.

6. By taking into consideration the reasons assigned by the petitioner in the affidavit filed in support of this Writ Petition, we are inclined to grant 28 day of ordinary to the petitioner's husband.

7. Accordingly, the convict prisoner namely Ezhilarasan, S/o.Arulsamy, Convict No.22765, shall be granted 28 days ordinary leave **“without escort”** commencing from 16.04.2024 to 13.05.2024, with a further condition that he shall report before the jurisdictional Police i.e. Perambalur Town Police Station, Perambalur District, twice a week on



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Mondays and Thursdays at 10.30 am. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 14.05.2024 before 10.00 a.m. The convict prisoner shall utilize the leave only for the purpose for which it has been granted and shall not indulge in any other activities.

8. With the above direction, the Writ Petition stands partly allowed.

No costs.

[M.S.R., J]

[S.M., J]

10.04.2024

Index: Yes/No

Speaking/Non-speaking order

Tsg

Note: Issue Order Copy on 15.04.2024.



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To

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Trichy Central Prison,
Trichy – 620 020.

3.The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

4.The Public Prosecutor,
High Court, Madras.



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