



W.P. No.7733 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.7733 of 2024

S.Nandini

...Petitioner

Vs.

1.The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai-600 009.

2.The Additional Director (Prison)
CMDA Tower,
Chennai-600 008.

3.The Chief Superintendent of Prison,
Puzhal Central Jail,
Chennai-600 066.

... Respondents

Prayer :- Writ Petition filed under Section 226 of the Constitution of India praying to issue a writ or direction or any other writ in nature of Writ of Mandamus, directing the third respondent to consider the representation dated 09.02.2024 and set grant one month leave without escort to the detenu namely Mrs.Shanmuha Priya, W/o.Murugan, now confined at Central, Puzhal Central Jail.



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For Petitioner : Mr.G.Murugendran
For Respondents : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Mr. Aravind, C.

ORDER

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

This writ petition has been filed for issuance of a Writ of Mandamus to direct the third respondent to consider the petitioner's representation dated 09.02.2024, seeking one month leave, without escort, for her sister / detenu viz., Mrs.Shanmuha Priya, W/o.Murugan, who is now confined at Central, Puzhal Central Jail.

2. The petitioner is a convict prisoner, who has been convicted and sentenced to undergo 10 years imprisonment by the II Additional Special Judge (FAC), EC & NDPS Court, Chennai in C.C. No.17 of 2020. The petitioner sought for ordinary leave on the ground that the presence of the petitioner's sister is required to meet the educational expenses of her children. However, the said representation was not considered by the authorities and hence, the present Writ



Petition.

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3. The learned Additional Public Prosecutor, on instructions, submitted that in view of the provisions under the Tamil Nadu Suspension of Sentence Rule, which bars grant of parole to heinous offences, the respondents cannot consider the petitioner's request for leave. This apart, the Probation Officer has also not recommended the grant of leave to the prisoner.

4. 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 his submission that Section 32-A of 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.

5. On a perusal of the records, we are of the view that though the Probation Officer has not positively recommended for grant of leave to the



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prisoner, no reason has been assigned by him for not accepting the reason given by the prisoner seeking for ordinary leave on the ground that the presence of the prisoner is required for arranging educational expenses for her children. As such, we are inclined to grant ordinary leave for a period of 15 days, without escort subject to the usual conditions that can be imposed by the respondents and this Writ Petition is ordered on the following terms:

- (1) The convict shall be released from the prison at 10.00 a.m on 04.04.2024 and he shall return back to the prison at 06.00 p.m. on 18.04.2024.
- (2) During the aforesaid leave period, the convict prisoner shall report before Thirugokarnam Police Station, Pudukottai District, twice a week at 10.30 a.m.

(M.S.R., J.) (S.M., J.)
01.04.2024

Anu
Internet : Yes
Index : Yes / No

Note: Issue order copy on 03.04.2024



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To
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Chennai-600 008.
- 3.The Chief Superintendent of Prison,
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Chennai-600 066.
4. The Inspector of Police,
Thirugokarnam Police Station,
Pudukottai District.
5. The Public Prosecutor
High Court, Madras.



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

Anu

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