



WEB COPY



W.P. No.10148 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.10148 of 2024

M.Sumathi

...Petitioner

Vs.

The State rep. by
The Superintendent of Police,
Central Prison-I,
Puzhal, Chennai District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or direction or any other writ in nature of Writ of Mandamus, to direct the respondent to consider the petitioner's representation dated 23.02.2024 and grant emergency leave for a period of 30 days enabling the petitioner's husband, Mutharasu, S/o.Subbiah Thevar, aged 37 years, Convict Prisoner, Central Prison-I, Puzhal, Chennai.

For Petitioner : Mr.D.Padmanabhan

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



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ORDER

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(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 respondent to consider the petitioner's representation dated 23.02.2024 and grant emergency leave for a period of 30 days enabling the petitioner's husband, Mutharasu, S/o.Subbiah Thevar, aged 37 years, Convict Prisoner, Central Prison-I, Puzhal, Chennai.

2. The petitioner herein is the wife of the convict prisoner, who has been convicted and sentenced to undergo 12 years of rigorous imprisonment and to pay fine of Rs.1,50,000/- and in default thereof to undergo rigorous imprisonment for six months by the learned I Additional Special Judge, Chennai in C.C.No.123 of 2018. The petitioner sought for emergency leave for a period of 30 days on the ground that the presence of her husband is required to meet the medical expenses of her mother-in-law as she is 75 years old and has certain medical ailments. 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 respondent 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 prisoner, no reason has been assigned by him for not accepting the reason given by the petitioner seeking ordinary leave for her husband on the ground that his presence



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is required to meet the medical expenses of her mother-in-law as she is 75 years old and has certain medical ailments. 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 16.06.2024 and he shall return back to the prison at 06.00 p.m. on 30.06.2024.
- (2) During the aforesaid leave period, the convict prisoner shall report before the Inspector of Police, Sattur Town Police Station, Virudhunagar, twice a week at 10.30 a.m.

(M.S.R., J.) (S.M., J.)
10.06.2024

Anu
Internet : Yes
Index : Yes / No

Note: Issue order copy on 14.06.2024



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WEB COPY To

1.The Superintendent of Police,
Central Prison-I,
Puzhal, Chennai District.

2. The Public Prosecutor
High Court, Madras.



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

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