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W.P.No.7572 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2024

CORAM :

THE HON'BLE MR. JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.No.7572 of 2024

Zannathul Arifa

...Petitioner/Wife of Detenu

vs.

1. The State rep by its,
The Home Secretary (Prison Department),
St. George Fort, Chennai – 600 009.

2. The Deputy Inspector General of Prison,
Chennai Range, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

3. The Superintendent of Prison,
Central Prison-1, Puzhal,
Thiruvallur District – 600 066. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to grant 30 days ordinary leave without escort to husband of the petitioner/ convict namely Mr.Liyakath Ali S/o.Kathar Ibrahim Kani, by considering petitioner's representation dated 28.02.2024.

For Petitioner :: Mr.M.Mohammed Saifullah

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor



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Assisted by Mr.Aravind .C

ORDER

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

The petitioner seeks grant of ordinary leave to her husband viz., Liyakath Ali S/o.Kathar Ibrahim Kani, who is a convict prisoner (Convict No.8647) sentenced to undergo 7 years of rigorous imprisonment and confined in Central Prison, Puzhal-1. The reason assigned for the leave is for making financial arrangement for education of their children.

2. The learned Additional Public Prosecutor produced the Probation Officer's report dated 12.03.2024 in which it is stated that the son of the petitioner is studying in a College and the daughter of the petitioner is studying in a school and they may require financial assistance for the studies.

3. In view of the positive report of the Probation Officer, we are of the view that the convict prisoner can be granted ordinary leave.

4. At this juncture, learned Additional Public Prosecutor submitted that though the petitioner has sought for 30 days ordinary leave, the convict



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prisoner is eligible for 21 days ordinary leave only and since a Special Leave Petition is pending before the Hon'ble Supreme Court against his conviction and sentence, leave cannot be granted under the provisions of the Tamil Nadu Suspension of Sentence Rules, 1982

5. As regards the above objection raised by the learned Additional Public Prosecutor, it is pertinent to mention the decision of the Coordinate Bench of this Court dated 29.09.2023, in W.P.(MD).No.6398 of 2023, in the case of ***Latha vs. Deputy Inspector General of Prison, Madurai***, wherein the respondents therein were directed to re-consider the petitioner's leave application, without reference to the pendency of the criminal appeal petition before the Hon'ble Supreme Court. Moreover, Rule 20 Sub Rule 1(i) of the Tamil Nadu Suspension of Sentence Rules provides for the grant of ordinary leave to a prisoner for making arrangements for the livelihood of his/her family for the settlement of life from the release. It would be pertinent to point out that Rule 20 (vii) of the Rules provides for grant of ordinary leave to a prisoner for "any extraordinary reason".

6. Therefore, considering the reasons for which ordinary leave is



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sought for and in exercise of our powers under Article 226 of the Constitution of India, we permit the petitioner's husband / Convict Prisoner i.e., Liyakath Ali S/o.Kathar Ibrahim Kani, bearing Convict No.8647 confined at Central Prison-1, Puzhal to avail Ordinary Leave for a period of 21 days without escort, on the following conditions.

(i) The Convict Prisoner viz., Liyakath Ali S/o.Kathar Ibrahim Kani, bearing Convict No.8647 confined at Central Prison-1, Puzhal, is granted 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 10.00am and surrender before the Superintendent of Prisons, Central Prison-1, Puzhal on 21.04.2024 at 05.30 p.m.

(iii) The Prisoner is directed to report before the Inspector of Police, B-1 Beach Police Station, Chennai District, twice a week i.e., on every Monday and Thursday at 05.00pm, 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.

(M.S.R.,J.)

(S.M.,J.)



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Index : Yes / No

Speaking / Non-Speaking Order

Neutral Citation : Yes / No

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M.S.RAMESH,J.

AND

SUNDER MOHAN,J.

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To

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

2. The Deputy Inspector General of Prison,
Chennai Range, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

3. The Superintendent of Prison,
Central Prison at Puzhal-1,
Thiruvallur District – 600 066.

4. The Public Prosecutor,
High Court, Madras.

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