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W.P.No.9862 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.9862 of 2024

Vellaiyammal

... Petitioner

Vs.

The State represented by its,

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

2.The Deputy Inspector of General of prison,
Coimbatore Range,
Coimbatore.

3.The Superintendent,
Central Prison,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order bearing No.256/Tha.U.3/2024, dated: 04.03.2024, passed by the 2nd respondent



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and quash the same and consequently direct the 1st respondent to grant ordinary leave for 60 days without escort to the detainee, Saravanan, S/o.Kandhasamy, aged about 50 years, bearing Convict No. 825 confined at central prison, Coimbatore.

For Petitioner : Mr.M.Ezhilarasu
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 Saravanan, S/o.Kandhasamy, aged about 50 years, now confined in Central Prison, Coimbatore, has come forward with this petition, seeking for grant of 60 days ordinary leave to her husband.

2. The case of the petitioner is that her husband is a convict prisoner, bearing Convict No.825, who was convicted for the offence under Section 307 r/w. 34 IPC and sentenced to undergo life imprisonment and under Section 302 r/w. 34 IPC and sentenced to undergo life imprisonment and under Section 394 r/w 397 IPC and sentenced to



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undergo 7 years imprisonment by the learned Additional District Judge-Cum-Chief Judicial Magistrate, Namakkal in Special S.C.No.5 of 2002 dated 27.05.2002.

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 07.02.2024, the Probation Officer has rejected the claim of the petitioner on the ground that the prisoner's son is running a business and is earning about Rs.50,000 to Rs.60,000/- per month and hence, the prisoner's presence is not required to make financial arrangements for the medical treatment of the petitioner.

4. Though it has been stated in the Probation Officer's report that the prisoner's son is earning about Rs.50,000/- to Rs.60,000/- per month, it is not clear as to whether the petitioner is living with her son and he is taking care of the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted



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the petitioner's son is married and is living separately.

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6. Therefore, the reasoning assigned by the Probation Officer for not recommending the petitioner's case seems to be non-application of mind.

7. The learned Additional Public Prosecutor, on instructions, submitted that the prisoner may be otherwise entitled for 40 days ordinary leave.

8. 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 21 days of ordinary leave to the petitioner's husband.

9. Accordingly, the convict prisoner namely Saravanan, S/o.Kandhasamy, Convict No.825, shall be granted 21 days ordinary leave ***“without escort”*** commencing from 22.04.2024 to 12.05.2024, with a further condition that he shall report before the jurisdictional Police i.e. Thiruchencode Rural Police Station, Namakkal District, twice a week on Mondays and Thursdays at 10.30 am. After expiry of the Ordinary Leave,



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the convict prisoner shall surrender before the Jail Authority on 13.05.2024 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.

10. With the above direction, the Writ Petition stands partly allowed. No costs.

[M.S.R., J]

[S.M., J]

17.04.2024

Index: Yes/No

Speaking/Non-speaking order

Tsg

Note: Issue Order Copy on 18.04.2024.



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To

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

2.The Deputy Inspector of General of prison,
Coimbatore Range,
Coimbatore.

3.The Superintendent,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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