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W.P. No.10702 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.10702 of 2024

S.Nandini

...Petitioner /sister of the detenue

Vs.

The State Represented by its

1.The Deputy Inspector General of Prison,
Chennai Range, Egmore,
Chennai-600 008.

2.The Superintendent,
Central Prison,
Puzhal-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 respondents to extend the ordinary leave granted to the detenue, Shanmuga Priya, W/o.Murugan, aged about 31 years, Convict No.1088, detained at Central Prison, Puzhal in W.P.No.7733 of 2024 from 18.04.2024, for 30 days without escort.



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For Petitioner : Ms.K.Akshaya
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.**)

In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal at the admission stage itself.

2. Through an earlier order dated 01.04.2024 passed in W.P.No.7733 of 2024, the petitioner's sister, Shanmuga Priya, W/o.Murugan, aged about 31 years, Convict No.1088, detained at Central Prison, Puzhal, was granted leave between 04.04.2024 and 18.04.2024 predominantly on the ground that her presence is required to arrange funds for the education of her children. The relevant portion of the order reads as follows:

"2. The petitioner is a convict prisoner, who has been



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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.

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 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."*

3. Learned counsel for the petitioner would submit that the petitioner's sister is yet to finalize and arrange the funds, for which she seeks extension of the leave granted.

4. We have taken note of the fact that the petitioner's sister would be



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otherwise eligible for 21 days of ordinary leave, out of she has been granted 15 days. In consideration of the request made, we are of the view that the remaining 6 days also be granted to the prisoner.

5. Accordingly, the present petition filed seeking to extend the ordinary leave granted to the prisoner is ordered and leave is extended till 24.04.2024 and the convict prisoner shall return back to the prison at 06.00 p.m. on 24.04.2024 and during the aforesaid extended period, the convict prisoner shall report before Thirugokarnam Police Station, Pudukottai District, once at 10.30 a.m.

(M.S.R., J.) (S.M., J.)
17.04.2024

Anu
Internet : Yes
Index : Yes / No

Note: Issue order copy on 18.04.2024



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

Anu

To

1.The Deputy Inspector General of Prison,
Chennai Range, Egmore,
Chennai-600 008.

2.The Superintendent,
Central Prison,
Puzhal-600 066.

3. The Inspector of Police,
Thirugokarnam Police Station,
Pudukottai District.

4. The Public Prosecutor
High Court, Madras.

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Dated: 17.04.2024