



WEB COPY



W.P. No.11581 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.11581 of 2024

V.Rajeshwari

...Petitioner

Vs.

1.The Director General of Police &
Director General of Prisons and Correctional Service,
Whannels Road,
Egmore, Chennai-600 008.

2.The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai-600 066.

... 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, directing the respondents to consider the representation of the petitioner dated 15.04.2024 and grant 30 days ordinary leave to the petitioner's father, Minor Kurose @ Venkatagiri, S/o Latsumaiya, aged 65 years, Convict Prisoner, now confined at Central Prison-1, Puzhal, Chennai.

For Petitioner : Mr.P.Pugalenth
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
Assisted by Mr. Aravind, C.



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ORDER

M.S.RAMESH, J.

and

SUNDER MOHAN, J.

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 15.04.2024, seeking one 30 days leave, without escort, for her father viz., Minor Kurose @ Venkatagiri, S/o Latsumaiya, aged 65 years, Convict Prisoner, now confined at Central Prison-1, Puzhal, Chennai.

2. The petitioner is a convict prisoner, who has been convicted for the offences under Section 120B r/w 302 IPC and sentenced to undergo life imprisonment; under Section 148 IPC, sentenced to undergo 2 years of simple imprisonment; under Section 302 IPC, sentenced to undergo imprisonment for life; under Section 3 of the Explosive Substances Act, 1908, he has been sentenced to undergo rigorous imprisonment for 10 years by the Sessions Court for Exclusive Trial of Bomb Blast Cases, Chennai at Poonamallee in S.C.No.07 of 2007 dated 26.03.2019. The petitioner sought for ordinary leave on the ground that the petitioner's sister has been affected by pernicious anemia and is in critical condition and wants to meet her father. Therefore, the petitioner made a



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representation dated 15.04.2024 before the respondents, however, the same was not considered by the authorities. Hence, the present Writ Petition.

3. The learned Additional Public Prosecutor, on instructions, submitted that since the prisoner is convicted under Explosive Substances Act, he is not eligible for ordinary leave as per Rule No.21(h)(1) of Tamil Nadu Suspension of Sentence Rules, 1982 as amended in G.O.(Ms).No.205, Home (Prison-V) Department, dated 25.04.2022. However, the Probation Officer, in his report dated 07.05.2024, has recommended for grant of ordinary leave.

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.



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5. Taking into consideration that the Probation Officer's report is in favour of the petitioner and that the elder sister of the petitioner has certain medical ailments and requires the presence of her father/convict prisoner, we are inclined to grant ordinary leave for a period of 21 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 27.06.2024 and he shall return back to the prison at 06.00 p.m. on 17.07.2024.
- (2) During the aforesaid leave period, the convict prisoner shall report before the Inspector of Police, Denkanikottai Police Station, daily at 10.30 a.m.

(M.S.R., J.) (S.M., J.)
21.06.2024

Anu
Internet : Yes
Index : Yes / No

Note: Issue order copy on 26.06.2024



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To
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Director General of Prisons and Correctional Service,
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- 2.The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai-600 066.
3. The Inspector of Police,
Denkanikottai Police Station
4. The Public Prosecutor
High Court, Madras.



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