



W.P.No.12332 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.12332 of 2024

Suresh

... Petitioner/ detenue

Vs.

1.The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
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 for the issuance of Writ of Mandamus, to direct the respondent to grant 21 days ordinary leave for the petitioner, Suresh, S/o.Sundaresan aged 50 years, Convict Prisoner, Convict No.2181, Central Prison, Puzhal.



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For Petitioner : Ms.S.Nadhiya
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

[Order of the Court was made by **M.S.RAMESH, J.**]

The petitioner herein is the detenue viz., Suresh, S/o.Sundaresan aged 50 years, Convict Prisoner, Convict No.2181, Central Prison, Puzhal, who was convicted and sentenced to undergo 7 years of imprisonment under Sections 420, 467, 468, 471, 420 r/w Section 511 IPC and 132, 135 of Customs Act in C.C.No.435 of 2004 by the learned Chief Metropolitan Magistrate, Egmore. Challenging the same, the petitioner filed an appeal in CrI.A.No.308 of 2009 before the Sessions Court and the same was dismissed. Pursuant to which, the petitioner filed a petition in CrI.R.C.No.1161 of 2018 before this Court and the same also came to be dismissed. It is the submission of the petitioner that his daughter was pursuing B.E. Computer Science and he has to make



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arrangements for educational expenses by selling his property. Therefore, he made a representation dated 05.04.2024 before the respondents. Since the same was not considered till date, he has filed the present petition seeking 21 days of ordinary leave as he has undergone more than 7 months including the remand period.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. The petitioner herein has been sentenced for 7 years of imprisonment through judgement of the learned Chief Metropolitan Magistrate, Egmore, Chennai passed in C.C.No.435 of 2004 dated 05.11.2008. The appeal before the Principal Sessions Court, Chennai in CrI.A.No.308 of 2008 was dismissed on 28.04.2018. So also, the further revision in CrI.R.C.No. 1161 of 2018 was rejected on 28.04.2023. As on 31.05.2024, the petitioner had undergone 7 years of imprisonment, including the remand set off period.



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4. Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982 provide for the eligibility conditions for a prisoner to seek for ordinary leave. As per Rule 22 (1) (b), no prisoner shall be granted ordinary leave unless he has completed two years of imprisonment, out of a sentence for a minimum period of 5 years but not more than 14 years. Under the explanation to the aforesaid Rule, the period of actual imprisonment shall be counted from the date of admission to prison as a convict. Admittedly, the petitioner herein who had been sentenced to undergo 7 years of imprisonment has completed only 7 months as on 31.05.2024. As such, he would not be eligible for grant of ordinary leave.

4. Hence, the Writ Petition stands dismissed. No Costs.

[M.S.R., J] [S.M., J]
18.06.2024

Speaking/Non-speaking order

Index: Yes/No

Anu



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3.The Public Prosecutor,
High Court, Madras.



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