



WEB COPY



W.P. No.12186 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.12186 of 2024

M.Asokan

...Petitioner /father of the detenue

Vs.

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

2.The Additional Director (Prison)
CMDA Tower,
Chennai-600 008.

3.The Chief Superintendent of Prison,
Puzhal Central Jail,
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, to direct the third respondent to consider the representation dated 13.04.2024 and set grant one month leave without escort to the detenue namely Mr.Sri Manikandan, S/o.M.Asokan, now confined at Chennai Puzhal Central



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For Petitioner : Mr.G.Murugendran

For Respondents : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Mr. Aravind, C.

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 third respondent to consider the petitioner's representation dated 13.04.2024, seeking one month leave, without escort, for his son / detenu viz., Mr.Sri Manikandan, S/o.M.Asokan, confined at Central Prison, Puzhal, Chennai.

2. The petitioner herein is the father of the convict prisoner, who has been convicted for the offences under Section 8(c) r/w 20(b)(ii)(C) and 8(C) r/w 29 of NDPS Act and sentenced to undergo 10 years of rigorous imprisonment by the Additional Special Court under NDPS Act, Chennai in C.C.No.17 of 2020. The petitioner sought for ordinary leave for one month on the ground that he requires



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the presence of his son to meet his medical expenses as he is suffering from Post Operative Congenital Heart Disease and the doctor has advised him to undergo an open heart surgery. 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 respondent 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.



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- (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 11.07.2024.
- (2) During the aforesaid leave period, the convict prisoner shall report before the Inspector of Police, Thirukokarnam Police Station, Pudukottai, 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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- 3.The Chief Superintendent of Prison,
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- 4.The Inspector of Police,
Thirukokarnam Police Station, Pudukottai
5. The Public Prosecutor
High Court, Madras.



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