



WEB COPY



W.P. No.12729 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.12729 of 2024

Janofar Nisha

...Petitioner / wife of the detenue
Vs.

1.The State represented by its,
The Deputy Inspector General of Prison,
Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Superintendent,
Puzhal Central prison,
Puzhal-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 grant ordinary leave for 30 days without escort to the detenue, Mohammed Farith, S/o.Mohideen Gani, aged about 33 years bearing convict No.9928 confined at Central Prison, Puzhal.



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For Petitioner : Ms.S.Sadhana

For Respondents : Mr.A.Gokulakrishnan
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 respondents to grant ordinary leave for a period of 30 days, without escort, for her husband/ detenu viz., Mohammed Farith, S/o.Mohideen Gani, aged about 33 years, bearing convict No.9928, confined at Central Prison, Puzhal.

2. The petitioner is a convict prisoner, who has been convicted and sentenced to undergo 10 years of rigorous imprisonment by the I Additional Special Court under NDPS Act, Chennai in C.C. No.139 of 2019. The petitioner sought for ordinary leave on the ground that the presence of her husband is



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required to meet the medical expenses of her mother-in-law as the doctor has advised her to undergo cardiac bypass 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 respondents cannot consider the petitioner's request for leave. However, the Probation Officer has 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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WEB COPY 5. Taking into account that Section 32-A of NDPS Act would not affect the powers of the authorities to grant parole, this Court, in exercise of its powers under Article 226 of the Constitution of India, is 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, C3 Seven wells Police Station, Chennai, 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

1.The Deputy Inspector General of Prison,
Gandhi Irwin Road, Egmore,
Chennai-600 008.

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

3. The Inspector of Police,
C3 Seven Wells Police Station,
Chennai.

4. The Public Prosecutor
High Court, Madras.



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and
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