



W.P. No.12887 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.12887 of 2024

Mumthaj Beevi

...Petitioner/Mother-in-law of the Detenu

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 detenu, Amsath Khan S/o.Kader Meera, aged about 40 years bearing Convict No.9989 confined at Central Prison, Puzhal.



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For Petitioner : Ms. S.Sadhana

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 respondents to consider the petitioner's representation dated 02.02.2024, seeking 30 days ordinary leave, without escort, for her son-in-law/detenu viz., Amsath Khan, S/o.Kader Meera, aged about 40 years bearing Convict No.9989, confined at Central Prison, Puzhal.

2. The petitioner herein is the mother-in-law of the convict prisoner, who has been convicted for the offence under Section 8 r/w 20, 23, 28, 29 of NDPS Act and sentenced to undergo 10 years imprisonment by the I Additional Special Court for Exclusive Trial of Cases under NDPS Act, in C.C. No.10 of 2020. The petitioner sought for ordinary leave for one month on the ground that she requires the presence her son-in-law to meet the educational expenses of the prisoner's children as well as the livelihood of the family. However, the said



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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.



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5. Though the Probation Officer has not positively recommended for grant of leave to the prisoner, considering the reason stated in the affidavit filed in support of the petition seeking ordinary leave for the petitioner's son-in-law on the ground that the presence of her son-in-law is required to meet the educational expenses of the prisoner's children as well as the livelihood of the family, we are inclined to grant ordinary leave to the detenu viz., Amsath Khan, S/o.Kader Meera, aged about 40 years, bearing Convict No.9989, confined at Central Prison, Puzhal, for a period of fifteen (15) days, without escort subject to the following conditions:

(i) The convict shall be released from the prison at 10.00 a.m on 02.07.2024 and he shall return back to the prison at 06.00 p.m. on 16.07.2024.

(ii) During the aforesaid leave period, the convict prisoner shall report before H6, R.K.Nagar, Police Station, Chennai, daily at 10.30 a.m.

(iii) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.



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6. With the above directions, the writ petition stands allowed.

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(M.S.R., J.) (S.M., J.)
26.06.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes/No

Note : Issue order copy on **01.07.2024**

Upload the order copy forthwith.

Copy 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 Public Prosecutor
High Court, Madras.



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and
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