



W.P.No.12855 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.12855 of 2024

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... Petitioner

Vs.

1.The Additional Director General of Prisons,
Whannels Road, Egmore,
Chennai – 600 008.

2.The Superintendent of Prison,
Central Prison,
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, directing the respondents to grant 21 days ordinary leave enabling the petitioner's husband namely Chinnadurai, S/o.Mariyasebastin, aged about 53 years, Convict Prisoner, Central Prison, Puzhal.



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For Petitioner : Ms.S.Nadhiya
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

The petitioner's husband is a convict prisoner, who was convicted for the offences under Sections 8(c) r/w. 20(b)(ii)(c) of NDPS Act and was sentenced to undergo 12 years of imprisonment in C.C.No.38 of 2021 by the learned Principal Special Court under EC and NDPS Act, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner is struggling for food and shelter and therefore, she requires her husband's presence for making livelihood arrangements. The learned counsel further submitted that the petitioner had given a representation dated 16.04.2024 in this regard and the same was rejected. The petitioner's husband/convict prisoner has undergone nearly 4 years of imprisonment including remand.



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3. The learned Additional Public Prosecutor has produced a proforma dated 01.06.2024 which states that since the convict prisoner was convicted for the offence under NDPS Act, he is not eligible for grant of leave. The learned Additional Public Prosecutor has also produced a report of the Probation Officer dated 21.06.2024 and the Probation Officer has stated that since the convict prisoner has not completed two years of imprisonment, grant of leave is not recommended.

4. The Hon'ble Supreme Court in the case of '*Dadu Alias Tulsidas Vs. State of Maharashtra*' reported in '*(2000) 8 Supreme Court Cases 437*', held that Section 32-A of NDPS Act would not affect the powers of the authorities to grant parole. Considering the aforesaid decision, a Co-ordinate 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. In view of the aforesaid decision of the Hon'ble Supreme Court, as well as considering the reason stated by the petitioner in the affidavit for seeking leave for her husband, we are inclined to consider the prayer sought for in this Writ Petition.

6. Accordingly, the respondents herein, are directed to grant 21 days Ordinary Leave ***“without escort”*** to the convict prisoner namely Chinnadurai, S/o.Mariyasebastin, aged about 53 years, commencing from 02.07.2024 to 22.07.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. H1 Washermanpet Police Station, Chennai, daily at 10.30 am. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 23.07.2024 before 10.00 a.m. The prisoner shall utilize the leave only for the purpose for which it has been granted and shall not indulge in any other activities.



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7. With the above direction, the Writ Petition stands allowed. No costs.

[M.S.R., J]

[S.M., J]

25.06.2024

Speaking/Non-speaking order

Index: Yes/No

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Note: Issue Order Copy on 01.07.2024

To

1.The Additional Director General of Prisons,
Whannels Road, Egmore,
Chennai – 600 008.

2.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai – 600 066.

3.The Public Prosecutor,
High Court, Madras.



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