



W.P.No.13243 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.13243 of 2024

and W.M.P.Nos.14383 and 14385 of 2024

B.Kalarani

... Petitioner

Vs.

1.The Additional Director General of Police / IG of Prisons
CMDA, Towers II, No.1
Gandhi Irvin Road, Egmore
Chennai 600 008

2.The Superintendent
Central Prison
Cuddalore

3.The Superintendent of Police
Cuddalore District
Cuddalore

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order bearing



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No.5820/Tha.Ku2/2024, dated 12.04.2024, passed by the 2nd respondent and quash the same and consecutively direct the respondents to grant ordinary leave for 28 days from 10.05.2024 to 07.06.2024 without any escort, to the detenu, Balamurugan S/o.Krishnamoorthy Life convict prisoner convict No.14722 detained at Central Prison, Cuddalore.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

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

The petitioner's husband, who is a life convict, seeking for grant of ordinary leave, has been rejected through the impugned order bearing No.5820/Tha.Ku2/2024, dated 12.04.2024, predominately on the ground that Convict Prisoner is involved in an offence under Section 392 of IPC, which stands as a bar for grant of ordinary leave under Rule 21 (b) of the Tamil Nadu Suspension of Sentence Rules, 1982.

2. Strictly speaking, the reason assigned in the impugned order



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cannot be found fault with. However before this Court, the petitioner/wife of the convict prisoner has filed an affidavit stating that the Convict Prisoner's presence is required for celebrating ear boring function of their son.

3. We had directed the learned Additional Public Prosecutor to obtain the Probation Officer's report with regard to the claim made by the petitioner in her affidavit. The Probation Officer in his report has stated that the ear boring function of their children which was scheduled earlier on 26.05.2024 is genuine.

4. At this juncture, the learned counsel for the petitioner would submit that the function has now been postponed, since the petitioner's husband could not be present and that they intend to conduct the function as soon as the petitioner's husband is granted leave.

5. In view of the favourable report of the Probation Officer and also taking into consideration the fact that the petitioner's husband has not been granted any sort of leave after 28.11.2021, we are inclined to invoke



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the powers of this Court under Article 226 of the Constitution of India, for the purpose of directing the respondents to release the petitioner on ordinary leave without escort for a period of 28 days.

6. Accordingly, the impugned order passed by the 2nd respondent in No.5820/Tha.Ku2/2024, dated 12.04.2024, is hereby quashed. Consequently, the respondents are directed to release the convict prisoner viz. Balamurugan, S/o.Krishnamoorthy, Convict No.14722, confined at Central Prison, Cuddalore, **“without escort”** for a period of 28 days commencing from 10.06.2024 to 08.07.2024, with a further condition that the convict prisoner shall report before the jurisdictional Police i.e. Kadampuliyur Police Station, Cuddalore, twice a week viz. on Monday and Thursday at 05.00 p.m., during the period of leave. After expiry of the ordinary leave, the convict prisoner shall surrender before the Jail Authorities on 09.07.2024 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. Consequently, the connected miscellaneous petitions are closed.

[M.S.R., J]

[S.M., J]

04.06.2024

Index: Yes/No
Neutral Citation

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Note: Issue Order Copy on 07.06.2024

To

1. The Additional Director General of Police / IG of Prisons
CMDA, Towers II, No.1
Gandhi Irvin Road, Egmore
Chennai 600 008

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Central Prison
Cuddalore

3. The Superintendent of Police
Cuddalore District
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4. The Public Prosecutor
High Court of Madras
Chennai 600 104



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