



WEB COPY



W.P.No.13930 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.13930 of 2024

Nalini

... Petitioner

Vs.

1.The State rep. by its,
The Deputy Inspector General of Prison,
Gandhi Irvin 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 for the issuance of Writ of Mandamus, directing the respondents to grant emergency leave for 15 days without escort to the detenu, Ilam Paruthi, S/o.Late Selvaraj, aged about 33 years, bearing Convict No.6923, 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.C.Aravind

ORDER

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

The petitioner's son is a convict prisoner, who was convicted for the offences under Sections 8(c) r/w. 29, 8(c) r/w. 20(b)(ii)(c), 8(c) r/w. 28 & 8(c) r/w 27(A) of NDPS Act and was sentenced to undergo 10 years of imprisonment in C.C.No.13 of 2015 by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner is suffering from heart disease and that her daughter's condition is also serious and she is admitted in hospital and therefore, the petitioner needs her son's presence for taking care of her and her daughter and for arranging money for their medical treatment and their



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livelihood. The learned counsel further submitted that the petitioner's son/convict prisoner has undergone 6 years of imprisonment.

3. The learned Additional Public Prosecutor has produced a copy of the Probation Officer's report dated 02.06.2024, which is in favour of the convict prisoner and the Probation Officer has recommended for grant of ordinary leave to the petitioner's son. However, the learned Additional Public Prosecutor submitted that since the convict prisoner was convicted for the offence under the NDPS Act, he is not eligible for leave.

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 of this Court and that the Probation Officer has positively recommended for grant of ordinary leave to the convict prisoner, we are inclined to consider the prayer sought for in this Writ Petition.

6. Accordingly, the respondents herein, are directed to grant 15 days Emergency Leave ***“without escort”*** to the convict prisoner namely Ilam Paruthi, S/o.Late Selvaraj, aged about 33 years, Convict No.6923, commencing from 07.06.2024 to 21.06.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. Uslampatti Police Station, Madurai, twice a week on Mondays and Thursdays at 10.30 am. After expiry of the Emergency Leave, the convict prisoner shall surrender before the Jail Authority on 22.06.2024 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]

03.06.2024

Speaking/Non-speaking order

Index: Yes/No

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Note: Issue Order Copy on 06.06.2024

To

1.The Deputy Inspector General of Prison,
Gandhi Irvin 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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