



W.P.No.14662 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.14662 of 2024
and W.M.P.No.15928 of 2024

S.Santhosh

... Petitioner

Vs.

1.The State represented by
The Deputy Inspector General of Prisons,
Vellore Range,
Ramsit Nagar, Thorapadi,
Vellore – 632 002.

2.The Superintendent of Prison,
Central Prison,
Vellore – 3.

... 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 of the 2nd respondent vide his proceedings No.E.51441/thaku.3/2024 dated 15.05.2024 has rejected the petitioners father's representation dated 02.05.2024 and to quash the same and to



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consequently directing the 2nd respondent to grant 6 months leave without escort to the convicted petitioner in C.T.No.3457, confined at the Central Prison, Vellore.

For Petitioner : Mr.V.Prabhakaran
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner is a convict prisoner, who was convicted for the offence under Sections 376(1), 342 r/w. 109 IPC and was sentenced to undergo 10 years rigorous imprisonment along with fine and penalty in S.C.No.171 of 2016 by the learned Additional Sessions Judge (Fast Track Mahila Court) at Krishnagiri on 05.02.2019. Aggrieved against the sentence, the petitioner filed CrI.A.No.408 of 2019 and he was granted suspension of sentence in CrI.M.P.No.8947 of 2019. When the appeal was taken up for final disposal, the same was dismissed and the petitioner surrendered before the Trial Court. He thereafter filed SLP (CrI) No.4744/2022 before the Apex Court and the same was allowed and the



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appeal was numbered in CrI.A.No.235 of 2023. However, the same is pending.

2. The learned counsel for the petitioner submitted that due to stomach cancer, the petitioner's mother is counting her last breath and requires her son's presence during her last days. The learned counsel further submitted that the petitioner's father has given a representation in this regard on 02.05.2024 and the same was rejected by the respondents on 15.05.2024.

3. Though the proforma produced by the learned Additional Public Prosecutor dated 27.06.2024 states that since the convict prisoner's appeal is pending before the Hon'ble Supreme Court, he is not eligible for ordinary leave as per Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982, a report of the Probation Officer dated 10.06.2024 states that the reason assigned by the petitioner is genuine and hence, he has recommended to grant leave to the convict prisoner.

4. By taking into consideration the reasons assigned in the affidavit



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filed in support of this Writ Petition, as well as the report of the Probation Officer, recommending to grant leave to the petitioner/convict prisoner, we are of the view that the petitioner's request for grant of ordinary leave to him could be restricted for a period of 21 days, in exercise of our powers under Article 226 of the Constitution of India.

5. Accordingly, the impugned order passed by the second respondent vide his proceedings No.E.51441/thaku.3/2024 dated 15.05.2024, is hereby quashed and the Writ Petition stands allowed. Consequently, the respondents are directed to grant 21 days Ordinary Leave ***“without escort”*** to the petitioner/convict prisoner namely S.Santhosh, S/o.Srinivasamoorthy, Convict No.3457, commencing from 04.07.2024 to 24.07.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. Hosur Town Police Station, Krishnagiri District, daily at 10.30 am. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 25.07.2024 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. No costs. Connected miscellaneous petition is closed.



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[M.S.R., J]

[S.M., J]

28.06.2024

Index: Yes/No

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Note: Issue Order Copy on 03.07.2024.

To

1.The Deputy Inspector General of Prisons,
Vellore Range,
Ramsit Nagar, Thorapadi,
Vellore – 632 002.

2.The Superintendent of Prison,
Central Prison,
Vellore – 3.

3.The Public Prosecutor,
High Court, Madras.



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