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W.P.No.14947 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.14947 of 2024

Imran Khan

... Petitioner

Vs.

1.The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai - 600 008.

2.The Superintendent of Prisons,
Central Prison-I,
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 28 days ordinary leave for the petitioner namely Imran Khan S/o.Nazeer Khan aged about 41 years, Convict No.7874 Convict Prisoner, Central Prison, Puzhal.



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For Petitioner : M/s.S.Nadhiya
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This Writ Petition has been filed for the issuance of a direction, directing the respondents to grant 28 days ordinary leave for the petitioner namely Imran Khan S/o.Nazeer Khan aged about 41 years, Convict No.7874 Convict Prisoner at Central Prison, Puzhal, Chennai.

2. Learned counsel for the petitioner submitted that the petitioner is the only son to his parents, his father is suffering from paralysis and totally bed ridden, his mother is also aged and she is unable to take care of his father. The petitioner's parents are also in need of money, which should be arranged by the petitioner and he has not been granted any leave earlier. Hence, he has sought for ordinary leave.

3. The learned Additional Public Prosecutor submitted a Probation



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Officer's report 10.06.2024, in which it is stated that the prisoner is convicted under NDPS Act, for smuggling commercial quantity of Narcotic and Psychotropic Substances and hence he is not eligible for ordinary leave as per Rule 21(h)(3) of Tamil Nadu Suspension of Sentence 1982 as amended in G.O.(Ms)No.205 Home (Prison-V) Department dated 25.04.2022. It is also stated by the Probation Officer that as per 32(A) of NDPS Act, 1985, the prisoners convicted under NDPS Act, are not eligible for any suspension, remission or commutation of sentence.

4.This Court cannot find fault with the reasons assigned by the Probation Officer in his report. At the same time, the Probation Officer has also recommended for his leave and stated that the reasons assigned by the petitioner in his representation are genuine.

5. 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



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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.

6. 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.

7. Accordingly, this Courts deems it fit to consider the representation of the petitioner and consequently, there shall be a direction to the respondents herein, to grant 21 days ordinary leave **“without escort”** to the convict prisoner viz. Imran Khan, S/o.Nazir Khan, aged about 41 years, Convict No.7874, commencing from 26.06.2024 to 16.07.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. S9, Palavanthangal Police Station, Chennai, daily at 10.30 a.m. After expiry of the Ordinary Leave,



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the convict prisoner shall surrender before the Jail Authority on 17.07.2024 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.

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

[M.S.R., J]

[S.M., J]

20.06.2024

Index: Yes/No
Neutral Citation

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Note: Issue Order Copy on 25.06.2024

To

1. The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai - 600 008.

M.S.RAMESH, J.
and



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SUNDER MOHAN, J.

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2.The Superintendent of Prisons,
Central Prison-I,
Puzhal, Chennai-600 066.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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20.06.2024