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W.P.No.15143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.15143 of 2024

Jayaseeli

... Petitioner/wife of the detenue

Vs.

The State represented by its,

1.The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai-600 009.

2.The Deputy Inspector General of Prison,
Puzhal Range,
Puzhal-600 066.

3.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 ordinary leave for 2 months without escort to the detanue, Babu, S/o.Samy aged about 63 years, confined at Central Prison, Puzhal.



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For Petitioner : Mr.M.Ezhilarasu
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

(Order of this Court was delivered by M.S.RAMESH,J.)

The petitioner's husband is a convict prisoner, who was convicted for the offence under Section 302 r/w 34 of IPC and was sentenced to undergo life imprisonment and fine of Rs.1,000/- in default to undergo 6 months of RI; under Section 326 IPC, he was sentenced to undergo 2 years RI along with a fine of Rs.1,000/- in default to undergo 6 months SI in S.C.No.73 of 1991 by the learned VII Additional Sessions Court, Chennai on 10.03.1992. Aggrieved against the said order, the petitioner's husband filed an appeal in CrI.A.No.149 of 1992 and the same was dismissed on 07.03.2001. Now, on the ground that the life convict prisoner is required for making arrangements for the marriage of his son, the petitioner had made a representation dated 24.04.2024 to the jail authorities for grant of ordinary leave. Since the same has not been considered within a reasonable



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time, the present Habeas Corpus Petition has been filed.

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2. The learned counsel for the petitioner submitted that the convict prisoner has undergone 16 years 04 months and 05 days of imprisonment, including the set off period.

3. Learned Additional Public Prosecutor produced a copy of the Probation Officer's report. A perusal of the report reveals that a favourable recommendation has been made for grant of ordinary leave to the prisoner and that the reasons assigned for the leave is genuine. The learned Additional Public Prosecutor also submitted that the petitioner's husband had earlier failed to report before the jail authorities after he was granted emergency leave on two occasions in the year 2000 and 2014.

4. From the written instructions presented before this Court, it is seen that the life convict prisoner was granted emergency leave on several occasions, the last being for 3 days, from 18.05.2024 to 22.05.2024. All these emergency leaves have been granted after the year 2014, which was after the respondent's claim that the prisoner had not reported in time



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before the jail authorities upon the expiry of the earlier leave periods.

When the respondents themselves have considered the request of the prisoner for grant of emergency leave, more particularly, without escort and by taking into consideration of the favourable report of the Probation Officer, we are inclined to grant ordinary leave for the petitioner's husband / convict prisoner for a period of 10 days, without escort by invoking our powers under Article 226 of the Constitution of India.

5. Accordingly, the respondents are directed to grant 10 days Ordinary Leave “*without escort*” to the petitioner's husband/convict prisoner namely Babu, S/o.Samy aged about 63 years, confined at Central Prison, Puzhal, commencing from 31.07.2024 to 09.08.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. N3 - Muthiyalpettai Police Station, Chennai, daily at 10.30 a.m. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 10.08.2024 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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costs.

6. With the above directions, the Writ Petition stands allowed. No

[M.S.R., J]

[S.M., J]

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Anu

Note: Issue Order Copy on 30.07.2024.

To

1.The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St. George,
Chennai-600 009.

2.The Deputy Inspector General of Prison,
Puzhal Range,
Puzhal-600 066.

3.The Superintendent,
Puzhal Central Prison,
Puzhal-600 066.

4.The Inspector of Police,
N3-Muthiyalpettai Police Station,
Chennai.

5.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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