



W.P. No.15450 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.15450 of 2024

Riswana

...Petitioner/Wife of the Detenu

Vs.

1.The State represented by its
The Deputy Inspector General of Prison,
Gandhi Irwin 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 to issue a writ or direction or any other writ in nature of Writ of Mandamus, directing the respondents to grant ordinary leave for 30 days without escort to the detenu, Shamseer, S/o.Koyoti aged about 33 years, bearing Convict No.10577 confined at Central Prison, Puzhal.

For Petitioner : Ms.S.Sadhana
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

M.S.RAMESH, J.

and

SUNDER MOHAN, J.

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents to grant ordinary leave for a period of 30 days, without escort, for her husband/detenu viz., Shamseer, S/o.Koyoti aged about 33 years, bearing Convict No.10577 confined at Central Prison, Puzhal .

2. The petitioner is the wife of a Convict Prisoner, viz., Shamseer, S/o.Koyoti aged about 33 years, bearing Convict No.10577, confined at Central Prison, Puzhal who has been convicted and sentenced to undergo 12 years of imprisonment by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai in C.C. No.131 of 2021. The petitioner sought for ordinary leave on the ground that the presence of her husband/prisoner is required to meet the medical expenses of the prisoner's sister, to make arrangements for their livelihood and their children's educational expenses. However, the said representation was not considered by the authorities, hence the present Writ Petition.



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3. The learned Additional Public Prosecutor, on instructions, submitted that in view of the provisions under the Tamil Nadu Suspension of Sentence Rule, which bars grant of parole to heinous offences, the respondents cannot consider the petitioner's request for leave. However, the Probation Officer has recommended the grant of leave to the prisoner.

4. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of *Dadu Alias Tulsidas vs. State of Maharashtra* reported in *(2000) 8 Supreme Court Cases 437* in support of her submission that Section 32-A of NDPS Act would not affect the powers of the authorities to grant parole. Considering the said decision, a Coordinate 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.

5. On a perusal of the records, we are of the view that the Probation Officer has positively recommended for grant of leave to the prisoner. Hence, we are inclined to grant ordinary leave to the Convict Prisoner, Shamseer, S/o.Koyoti aged about 33 years, bearing Convict No.10577 confined at Central Prison,



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Puzhal for a period of sixteen (16) days, ***without escort***, subject to the following

conditions:

(i) The convict shall be released from the prison at 10.00 a.m on 08.07.2024 and he shall return back to the prison at 06.00 p.m. on 23.07.2024.

(ii) During the aforesaid leave period, the convict prisoner shall report before Koyilandy Police Station, Kerala, daily at 10.30 a.m.

(iii) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

6. With the above directions, the writ petition stands allowed.

7. Post the matter for reporting compliance on 26.07.2024.

(M.S.R., J.) (S.M., J.)
02.07.2024

dk

Internet : Yes

Index : Yes / No

Note : Issue order copy by **05.07.2024**

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1.The Deputy Inspector General of Prison,
Gandhi Irwin 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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