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W.P.No.15738 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.15738 of 2024

V.Parameswari

... Petitioner

Vs.

1.The Home Secretary,
Home Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Additional Director General of Police
and Inspector General of Prisons,
Whannels Road, Egmore,
Chennai – 600 008.

3.The Superintendent of Prison,
Vellore Central Prison,
Vellore District.

4.The Inspector of Police,
Anaicut All Women Police Station,
Vellore District.

... Respondents



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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 30 days ordinary leave without escort to the petitioner's husband/convict prisoner namely Vadivelan, S/o.Perumal, CT-3128, now confined in Vellore Central Prison, for the purpose of “to making arrangements of higher treatment to petitioner and arrange the College fees of the convict's daughter”, in pursuant to petitioner's representation dated 03.04.2024.

For Petitioner : Mr.Mohammed Saifulla

For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner's husband is a convict prisoner, who was convicted for the offence under Section 363 of IPC and was sentenced to undergo 2 years RI along with a fine of Rs.12,500/- in default to undergo 1 month SI; under Section 36r IPC, he was sentenced to undergo 3 years RI along with a fine of Rs.12,500/- in default to undergo 1 month SI and under Section 6



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r/w. 5(i) of POCSO, he was sentenced to undergo 10 years RI along with a fine of Rs.12,500/- in default to undergo 1 months SI in S.C.No.28 of 2016 by the learned Sessions Judge, Mahalir Neethimandram Fast Track Mahila Court, Vellore on 31.01.2018. Aggrieved against the said order, the petitioner's husband filed an appeal in Crl.A.No.175 of 2019 and the same was dismissed on 02.04.2019. Now, on the ground that the petitioner requires the presence of her husband/convict prisoner for arranging funds for her medical treatment, as well as for arranging money for their daughter's college fees, she has sought for 30 days ordinary leave for her husband. She has given a representation dated 03.04.2024 in this regard and since the same has not been considered till date, she has filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the convict prisoner has undergone 7 years of imprisonment.

3. The particulars produced by the learned Additional Public Prosecutor of the convict prisoner dated 18.06.2024 states that the convict prisoner is not eligible for grant of leave since he was convicted under the



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POCSO Act and the victim was aged about 15 years. Further, a report of the Probation Officer dated 01.07.2024, states that the reason assigned by the petitioner seeking leave for her husband is not genuine since she did provide any proper documents and hence, he has not recommended for grant of leave.

4. By taking into consideration the period of incarceration undergone by the convict prisoner, as well as the reasons assigned in the affidavit filed in support of this petition, we are inclined to grant 28 days of ordinary leave to the petitioner's husband/convict prisoner, by invoking our powers under Article 226 of the Constitution of India.

5. Accordingly, the respondents are directed to grant 28 days Ordinary Leave ***“without escort”*** to the petitioner's husband/convict prisoner namely Vadivelan, S/o.Perumal, Convict No.3128, commencing from 10.07.2024 to 06.08.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. Anaicut Police Station, Vellore District, daily at 10.30 a.m. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 07.08.2024



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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.

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

[M.S.R., J]

[S.M., J]

03.07.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

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Note: Issue Order Copy on 09.07.2024.



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

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To

1.The Home Secretary,
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Secretariat, Fort St.George,
Chennai – 600 009.

2.The Additional Director General of Police
and Inspector General of Prisons,
Whannels Road, Egmore,
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3.The Superintendent of Prison,
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4.The Inspector of Police,
Anaicut All Women Police Station,
Vellore District.

5.The Public Prosecutor,
High Court, Madras.

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03.07.2024