



WEB COPY



W.P.No.15710 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.15710 of 2024

Mariyammal

... Petitioner

Vs.

The State represented by its

1.The Deputy Inspector General of Prison,
Coimbatore Zone,
Coimbatore - 641 018.

2.The Superintendent,
Central Prison,
Coimbatore - 641 018.

... 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 30 days without escort to the detenu namely Rajesh, S/o.Raman, aged about 38 years, bearing Convict No.18567 confined at Central Prison, Coimbatore.



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For Petitioner : Mr.P.Bakiyaraj
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner's husband is a life convict prisoner, who was convicted for the offence under Section 376(2)(g) of IPC and was sentenced to undergo life imprisonment along with a fine of Rs.10,000/- in default to undergo 1 year SI in S.C.No.3 of 2013 by the learned Sessions Judge of Magalir Neethimandram (FTMC), Udthagamandalam at Niligirs on 18.03.2021

2. The learned counsel for the petitioner submitted that the petitioner needs the presence of her husband/life convict for making livelihood arrangements and for renovating the house. The petitioner has also given a representation to the respondents on 24.05.2024 in this regard. Since she did not receive any positive reply, she has filed the present Writ Petition.



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The learned counsel further submitted that the life convict has undergone 9 years of imprisonment.

3. The learned Additional Public Prosecutor has produced the particulars of the life convict, which states that the life convict is eligible for grant of leave. Further, the Probation Officer, though has inquired and found that the ground on which the petitioner is seeking leave for her husband/life convict is genuine, he has neither recommended for grant of leave nor has quoted any reason for the same.

4. This is not an isolated case where the Probation Officer, who has been assigned the task of verifying the genuinity of the ground for which leave is sought for by the petitioner for her husband/life convict, has exceeded his powers and has not recommended the case. We deem it appropriate to remind the Probation Officers of their limited duties to be performed, when a requisition for verification is referred to them by the Deputy Inspector General of Prisons or the Superintendent of Prisons.



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5. Rule 22 of the Rules provides for the eligibility condition for grant of ordinary leave, which would be the guidelines for the Deputy Inspector General of Prisons to adopt, while considering an application for ordinary leave. Similarly, when an emergency leave is sought for, the Superintendent of Prisons shall look into the eligibility criteria, as provided for under Rule 6 for such consideration.

6. A petition for grant of ordinary leave, when submitted to either the Deputy Inspector General of Prisons or the Superintendent of Prisons, requires to be referred to the Probation Officer concerned for reports on the advisability of the ordinary leave of the prisoner, as provided under Rule 24 of the Rules. When such a reference has been made, the Probation Officer is mandated to personally inquire into and send his report to either the Deputy Inspector General of Prisons or the Superintendent of Prisons in Form-I. While making such an enquiry, if the Probation Officer feels that grant of leave to a prisoner is likely to involve any breach of peace, he is required to obtain the views of the concerned jurisdictional Sub-Inspector of Police in the same Form. On the contrary, if the Probation Officer is of the view that there is no likelihood of breach of peace, he shall send his



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report directly to the Deputy Inspector General of Prisons or the Superintendent of Prisons, as the case may be, without consulting the jurisdictional Sub-Inspector of Police. This is the limited role that is to be played by the Probation Officers, when a reference has been made to them on a petition given to the Deputy Inspector General of Prisons or the Superintendent of Prisons, seeking for grant of ordinary or emergency leave. The Probation Officers do not have any authority or powers at all to comment on the eligibility of a prisoner to seek for leave and no such provision has been made under the Rules to that effect.

7. Thus, the Probation Officer, having found the reason assigned by the petitioner, seeking for grant of leave for her husband, to be genuine, ought to have favourably recommended the case, with or without the views of the jurisdictional Police, if necessary.

8. By taking into consideration the Probation Officer's remarks that the reasons assigned by the petitioner are genuine, in exercise of our powers under Article 226 of the Constitution of India, we are inclined to grant 28 days of ordinary leave to the petitioner's husband/life convict.



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9. Accordingly, the respondents are directed to grant 28 days Ordinary Leave ***“without escort”*** to the petitioner's husband/life convict namely Rajesh, S/o.Raman, aged about 38 years, commencing from 10.07.2024 to 06.08.2024, with a condition that the life convict shall report before the jurisdictional Police i.e. Kothagiri Police Station, Nilgiris District, daily at 10.30 am. After expiry of the Ordinary Leave, the life convict shall surrender before the Jail Authority on 07.08.2024 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.

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

[M.S.R., J]

[S.M., J]

03.07.2024

Index: Yes
Speaking order
Internet: Yes

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Note: Issue Order Copy on 09.07.2024.



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2.The Superintendent,
Central Prison,
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3.The Public Prosecutor,
High Court, Madras.



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