



W.P.No.17286 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.17286 of 2024

Priyanka

... Petitioner

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 – I,
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 30 days without escort to the detenue, Mani @ Marimuthu S/o.Yekambaram aged about 34 years bearing Convict No.9396 confined at Central Prison, Puzhal.



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For Petitioner : M/s.S.Sadhana
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 offences under Sections 8(c) r/w. 22(c), 23(c) 28 & 29 of the NDPS Act and was sentenced to undergo 5 years of imprisonment in S.C.No.151 of 2018 by the learned Additional Spl.NDPS Court, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner requires her husband's presence for making livelihood arrangements for her and their children. The learned counsel further submitted that the petitioner had given a representation dated 23.05.2024 in this regard to the respondents and the same is yet to be considered. The petitioner's husband/convict prisoner has undergone nearly 2 years



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of imprisonment.

3. The learned Additional Public Prosecutor has produced a proforma dated 16.07.2024 which states that since the convict prisoner was convicted for the offence under NDPS Act, he is not eligible for grant of leave. The learned Additional Public Prosecutor has also produced a report of the Probation Officer dated 25.06.2024 and the Probation Officer has not recommended for grant of ordinary leave to the convict prisoner/petitioner's husband stating that the reasons stated by the petitioner in her representation were not found to be genuine.

4. 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 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.



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5. In view of the aforesaid decision of the Hon'ble Supreme Court, as well as considering the reason stated by the petitioner in the affidavit for seeking leave for her husband, we are inclined to consider the prayer sought for in this Writ Petition.

6. Accordingly, the respondents herein, are directed to grant 7 days Ordinary Leave “*without escort*” to the convict prisoner namely Mani @ Marimuthu, S/o.Yekambaram, aged about 34 years, commencing from 24.07.2024 to 30.07.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. Kannagi Nagar Police Station, Tambaram City, Chennai daily at 10.30 am. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 31.07.2024 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.



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

[M.S.R., J]

[S.M., J]

18.07.2024

Speaking/Non-speaking order

Index: Yes/No

Tsg

Note: Issue Order Copy on 23.07.2024

To

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 – I,
Puzhal – 600 066.

3.The Public Prosecutor,
High Court, Madras.



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