



W.P.No.17322 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

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Jebachristiyal

... Petitioner/wife of the detenue

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, to direct the respondents to grant ordinary leave for 30 days without escort to the detenue, Bernatsha Rajkumar, S/o.Asirvatham, aged about 43 years, bearing Convict No.7572 confined at Central Prison, Puzhal.

For Petitioner

: Mr.S.Sadhana



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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 5(m) r/w 6 POCSO Act, 2012 and was sentenced to undergo 10 years RI along with a fine of Rs.5,000/- in default to undergo 6 months SI in S.C.No.113 of 2014 by the Mahalir Neethimandram (Fast Track Mahila Court), Thiruvallur on 07.06.2019. Aggrieved against the said order, the petitioner's husband filed an appeal in Crl.A.No.457 of 2019 and the same was dismissed on 12.02.2021. 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 children's college fees, she has sought for 30 days ordinary leave for her husband. She has given a representation dated 27.05.2024 in this regard and since the same has not been considered till date, she has filed the present Writ Petition.



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2. The learned counsel for the petitioner submitted that the convict prisoner has undergone 5 years 2 months and 22 days of imprisonment, including the remand set off period.

3. Learned Additional Public Prosecutor submitted that the convict prisoner is not eligible for grant of leave since he was convicted under the POCSO Act and the victim was aged about 4 years. Further, a report of the Probation Officer dated 09.07.2024, 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 10 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



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Ordinary Leave “*without escort*” to the petitioner's husband/convict prisoner namely Bernatsha Rajkumar, S/o.Asirvatham, aged about 43 years, bearing Convict No.7572 confined at Central Prison, Puzhal, commencing from 24.07.2024 to 02.08.2024, with a condition that the convict prisoner shall report before the jurisdictional Police i.e. B2 Taluk Police Station, Thiruvallur, daily at 10.30 a.m. After expiry of the Ordinary Leave, the convict prisoner shall surrender before the Jail Authority on 02.08.2024 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.

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

[M.S.R., J]

[S.M., J]

18.07.2024

Index: Yes/No

Speaking/Non-speaking order

Anu

Note: Issue Order Copy on 23.07.2024.



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To

1.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 Inspector of Police,
B2 Taluk Police Station,
Thiruvallur District.

4.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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