



W.P.No.18634 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.18634 of 2024

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... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

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

3.The Superintendent of Prisons,
Central Prison,
Cuddalore - 4.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records No.9660/ThaKu.2/2024 dated 24.06.2024 passed by the respondent No.3, and quash the same and consequently direct the



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respondents to grant 30 days ordinary leave to the petitioner's husband namely S.Senthilkumar, S/o.Selvaraj, aged 47 years, Convict Prisoner No.14681, now confined in the Central Prison, Cuddalore.

For Petitioner : Mr.P.Pugalenthir

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

ORDER

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

This Writ Petition has been filed challenging the impugned order dated 24.06.2024, rejecting the representation of the petitioner dated 15.06.2024.

2. The only reason assigned in the impugned order for rejecting the petitioner's request for grant of ordinary leave to her husband is that since the life convict was convicted under the TADA Act and Explosive Substance Act, he is not eligible for grant of leave under Rule 21(h)(1) of Tamil Nadu Suspension of Sentence Rules, 1982.

3. The particulars produced by the learned Additional Public



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Prosecutor of the life convict dated 10.07.2024 states that the life convict is not eligible for grant of leave. Further, a report of the Probation Officer dated 31.07.2024, states that though the reason assigned by the petitioner seeking leave for her husband is genuine, he has not recommended for grant of leave since the life convict was convicted under the TADA, Explosive Substances Act.

4. Though the representation of the petitioner was rejected by citing Rule 21(h)(1) of Tamil Nadu Suspension of Sentence Rules, 1982, which states that any person convicted under terrorist crimes is not eligible for grant of ordinary leave, in exercise of powers under Article 226 of the Constitution of India and keeping in line with the decision of the Hon'ble Supreme Court in '*Dadu alias Tulsidas Vs. State of Maharashtra*' reported in '*(2000) 8 SCC 437*', this Court is inclined to grant leave for a period of 28 days to the life convict as this Court is convinced with the reasons stated by the petitioner in the affidavit filed in support of the petition

5. Accordingly, the impugned order dated 24.06.2024 passed in



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No.9660/ThaKu.2/2024 by the third respondent, is hereby quashed.

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Consequently, Ordinary Leave for a period of 28 days “*without escort*” is granted to the petitioner's husband/life convict namely S.Senthilkumar, S/o.Selvaraj, aged 47 years, Convict Prisoner No.14681, commencing from 12.08.2024 to 08.09.2024, with a condition that the life convict shall report before the jurisdictional Police i.e. Cuddalore OT Police Station, twice a week on Tuesdays and Fridays at 10.30 a.m. After expiry of the Ordinary Leave, the life convict shall surrender before the Jail Authority on 09.09.2024 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]

02.08.2024

Index: Yes/No

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Note: Issue Order Copy on 09.08.2024.



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To

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Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
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Inspector General of Prisons and Correctional Service,
Whannels Road,
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High Court, Madras.



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