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W.P.No.19602 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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Pushpavalli

...Petitioner/Mother of the detenue

VS.

The State represented by its,

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort, St.George,
Chennai - 600 009.

2.The Deputy Inspector General of Prison,
Chennai Range,
Egmore,
Chennai – 600 008.

3.The Superintendent,
Women's Central Prison,
Puzhal,
Chennai – 620 020.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for



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issuance of a Writ of Mandamus, to direct the respondents to grant ordinary leave of 30 days without escort to the detenue, Jayalakshmi, W/o.Babu, aged about 38 years, confined at Women's Central Prison, Puzhal.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This writ petition has been filed to grant 30 days of ordinary leave without escort to the Convict Prisoner/daughter of the petitioner, viz.,Jayalakshmi W/o Babu, aged about 38 years, now confined at Women's Central Prison, Puzhal. .

2.Heard the learned counsel for the petitioner and Mr.A.Gokulakrishnan learned Additional Public Prosecutor for the respondents.



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3. According to the learned counsel for the petitioner, the petitioner/mother of the prisoner, who is aged about 82 years, residing alone and further the prisoner is suffering from Diabetes, Cysts in her chest and nose and she requires medical attention and treatment. Hence, the petitioner prayed for grant of 30 days of ordinary leave to her daughter/prisoner.

4. Learned Additional Public Prosecutor submitted that prisoner is facing trial in S.C.No.359 of 2021 on the file of learned Sessions Judge, Magalir Neethimandram Court, Allikulam, Chennai and not eligible for grant of leave as per Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982. He further produced a copy of the Probation Officer's report dated 26.07.2024, wherein the Probation Officer has recommended for grant of leave with escort.

5. It is true that Rule 35 prohibits for grant of leave to a prisoner on whom cases are pending trial. However, this provision cannot be termed as an absolute bar or mandatory in nature, since Rule 40 empowers the Government to exempt any person from this Rule. Even otherwise, when the Probation Officer, in his report, has confirmed that the petitioner/mother of the prisoner, aged 82 years residing alone, we are of the view that the petitioner's request can be considered



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favourably.

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6. Thus, in exercise of our powers under Article 226 of the Constitution of India, we permit the petitioner's daughter viz., Jayalakshmi, W/o.Babu, aged about 38 years, confined at Womens Central Prison, Puzhal to avail Ordinary Leave for a period of 21 days, without escort, on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., Jayalakshmi, W/o.Babu, on Ordinary Leave for a period of 21 days i.e., from 05.08.2024 to 25.08.2024.

(ii) The Convict Prisoner shall be released on 05.08.2024 at 10.00 am and surrender before the Superintendent of Prison, Womens Central Prison, Puzhal, on 25.08.2024 at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Nemili Police Station, Ranipettai District daily at 10.00 a.m., and appear before the trial Court in S.C.No.359 of 2021 on the file of the learned Sessions Judge, Mahalir Neethimandram Court, Allikulam, Chennai on all the hearing dates, during the period of leave.

(iv) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.



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7. With the above directions, the writ petition stands allowed.

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(M.S.R.,J.) (S.M.,J.)
01.08.2024

dk

Index:yes/no

Internet:yes/no

Note: Issue Order copy on 02.08.2024

To

1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort, St.George,
Chennai - 600 009.

2.The Deputy Inspector General of Prison,
Chennai Range,
Egmore,
Chennai – 600 008.

3.The Superintendent,
Women's Central Prison,
Puzhal,
Chennai – 620 020.

4.The Public Prosecutor
Madras High Court.



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

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