

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No.24209 of 2024

Kupulakshmi

... Petitioner

Vs.

1.The Home Secretary,
Home Department,
Secretariat, Fort St.George,
Chennai – 600 009.

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

3.The Superintendent of Prisons,
Cuddalore Central Prison,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari Mandamus, to call for the records in proceedings Vide No 11832 / Tha. Ku. 2 / 2024 dated 05.08.2024 by the 3rd respondent and quash the same and further directed the respondent 1 to 3 to grant ordinary leave 30 days without escort to the life Convict Mr. Thiyagarajan, S/o Arumugam (CT. No 15534) now confine in 3rd respondent prison, for the purpose of “to making the arrangements and performing the customary

sacramental of 30th day of his deceased mother” in pursuant to petitioner representation dated 30.07.2024.

For Petitioner : Mr.P.Muthamishselvakumar

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ Petition on hand has been instituted challenging the order of rejection of leave application passed by the Superintendent of Police, Cuddalore Central Prison in proceedings Vide No 11832 / Tha. Ku. 2 / 2024 dated 05.08.2024.

2. The application submitted by the petitioner seeking ordinary leave was rejected, mainly on the ground that, the convict prisoner at earlier occasions, on expiry of leave had not returned to the jurisdictional authority. Two such occasions are reported in the impugned order. One occurred in July 2003, after expiry 30 days of ordinary leave and another occurred in November 2010, on expiry of one day of emergency leave granted to the convict prisoner. On the first occasion, for long term, the convict prisoner has not returned to jail and the police authorities subsequently arrested him and lodged him in prison. Questioning the

previous conduct of the convict prisoner, the Superintendent of police rejected the leave application filed on behalf of the convict prisoner.

3. We considered the facts and circumstances. Both instances referred in the order impugned pertains to the years 2003 and 2010. Thereafter, the convict prisoner is in prison for about 14 years without earning any adverse remarks. When there is no adverse remarks for 14 years, from 2010 to 2024, the authorities competent would have considered the leave application submitted by the convict prisoner for ordinary leave.

4. The learned Additional Public Prosecutor submitted that on 15.07.2024, the convict prisoner availed one day emergency leave on account of the death of his mother. After attending the death ceremony, the convict prisoner returned to the prison authority. More so, the earlier conduct was of the year 2010 and now 14 years have been lapsed.

5. The convict prisoner filed a sworn affidavit before this Court

stating that he will surrender before the jurisdictional authorities on expiry of the leave period. The relevant portion of the affidavit is extracted as follows,

“5. I state that, insofar as my leave application has been rejected by the 3rd respondent, I was very well known the consequences of absconding and not return the prison in time, herein after I never do the same and duly complied the condition imposed by the Court and return the prison as in time. I am the panel of premature release I know that if I am not return the prison as stipulated time I will loss the great opportunity and be another decade as a convict, I given the undertaken before this Court that I will return the prison as in time and not absconded anywhere. If not return so far I bound to be responsible of the consequences.”

6. Considering the facts and circumstances, we are inclined to consider the 28 days of ordinary leave to the convict prisoner. Accordingly, the impugned order made in Proceedings No 11832 / Tha. Ku.

2 / 2024 dated 05.08.2024. is quashed.

7. Accordingly, the convict prisoner viz.,Thiyagarajan, S/o Arumugam (CT. No 15534) now confined at Cuddalore Central Prison, Cuddalore District, is hereby granted ordinary leave for a period of **28 days**, without escort commencing from **13.09.2024** on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., Thiyagarajan, S/o Arumugam (CT. No 15534) now confined at Cuddalore Central Prison, Cuddalore District, on Ordinary Leave for a period of **28 days i.e., from 13.09.2024 to 10.10.2024.**

(ii) The Convict Prisoner shall be released on **13.09.2024** at 10.00 am and surrender before the Superintendent, Cuddalore Central Prison, Cuddalore District, on **10.10.2024** at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Inspector of Police, Palani Town Police Station twice in a week at 05.30 pm, during the period of leave.

(iv) The convict prisoner is directed not to leave the territorial jurisdiction of Palani Police Station.

(v) 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.

8. Accordingly, the writ petition stands disposed of. No Costs.

9. For reporting compliance, post the matter on 14.10.2024.

[S.M.S., J.]

[V.S.G., J.]

09.09.2024

Index: Yes/No

Speaking/Non-speaking order

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To

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