



WEB COPY



W.P.No.25751 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM :

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

W.P.No.25751 of 2024

P. Nivetha

... Petitioner

Vs.

1. The Director General of Prison,
O/o. Director General of Prison,
Whanells Road, Egmore,
Chennai District 600 008.
2. The Deputy Director General of Prison,
O/o. Director General of Prison,
Whanells Road, Egmore,
Chennai District 600 008.
2. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records in proceeding vide No.11831/Tha.Ku.2/2024 dated 05.08.2024 by the 3rd respondent and quash the same and further directed the respondents 1 to 3



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to grant ordinary leave 30 days without escort to the life convict Mr.Babu S/o. Anbazhagan (CT.No.16993) now confine in 3rd respondent Prison, for the purpose of "to fencing, repair the house and arrangements of the studies of the children's of the convict" in pursuant to petitioner representation dated 30.07.2024.

For Petitioner : Mr. P. Muthamizh Selvakumar

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

ORDER

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

The rejection of the leave application passed by the Superintendent of Prison, Central Prison, Cuddalore, dated 05.08.2024 is sought to be quashed in the present writ petition.

2. The reason stated in the order impugned is that Criminal Appeal No.171 of 2024 is pending on the file of the High Court, Madras. Therefore, the convict prisoner is not eligible to avail the benefit of ordinary leave.



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3. It is not in dispute that the convict prisoner is in actual imprisonment for about 4 years and not availed the benefit of leave on previous occasions.

4. The learned Additional Public Prosecutor would raise an objection merely on the ground that the victim's family is also residing nearby the residence of the petitioner's wife.

5. With reference to the said objection, the wife of the convict prisoner, filed an affidavit stating as follows:

" I state that, I hereby given the undertaken that I am responsible for keep my husband in my parental home at Sadaiyankadu, Vettaikaraneruppu, Kilvelur Taluk, Nagapattinam District and not allow him to enter in any manner in the limits of the Panaiyadikuppam Village, which is the jurisdiction of the victim family residing and not to cause any issues will arouse with regard to that, if so I am take all the responsibility of the same"



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6. In view of the fact that the petitioner undertakes that she will take the convict prisoner in her parent's house, i.e., Sadaiyankadu, Vettaikaraneruppu, Kilvelur Taluk, Nagapattinam District, we are inclined to invoke our powers under Article 226 of the Constitution of India, thereby granting required leave to the convict prisoner herein.

7. Accordingly, the impugned order dated 05.08.2024 passed by the third respondent in No.11831/Tha.Ku.2/2024 is quashed and convict prisoner viz., Mr.Babu S/o. Anbazhagan (CT.No.16993) now confined at Central Prison, Cuddalore, is hereby granted ordinary leave for a period of 21 days, without escort commencing from **30.10.2024** on the following conditions:-

(i) Respondents are directed to release the Convict Prisoner viz., Mr.Babu S/o. Anbazhagan (CT.No.16993) now confined at Central Prison, Cuddalore on Ordinary Leave for a period of **21 days i.e., from 30.10.2024 to 19.11.2024.**

(ii) The Convict Prisoner shall be released on **30.10.2024** at 10.00 am and surrender before the Central Prison, Cuddalore, on **19.11.2024** at 10.00 a.m.

(iii) The Convict Prisoner is directed to report before the Inspector of Police, Vettaikaran Irupu Police Station, Nagapattinam District, twice in a week, i.e., on Monday and



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Friday at 10.30a.m., 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.

8. Accordingly, the writ petition stands allowed. No Costs.

[S.M.S., J.]

[V.S.G., J.]

25.10.2024

Index: Yes/No

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Speaking/Non-speaking order

mrp

To

1. The Director General of Prison,
O/o. Director General of Prison,
Whanells Road, Egmore,
Chennai District 600 008.
2. The Deputy Director General of Prison,
O/o. Director General of Prison,
Whanells Road, Egmore,
Chennai District 600 008.
3. The Superintendent of Prison,
Central Prison, Cuddalore,
Cuddalore District.
4. The Public Prosecutor,
High Court of Madras.



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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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