



WEB COPY



W.P.No.26640 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

W.P.No.26640 of 2024

Mr.Madhesh

... Petitioner

Vs.

1. The State rep. by its,
The Home Secretary (Prison Department),
St. George Fort, Chennai-009.

2.The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Gandhipuram,
Coimbatore-641018.

3.The Superintendent of Prison,
Central Prison at Salem,
Hasthampatty, Salem-7.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining with an impugned proceedings no.9821/ta.ku.3/2024 dated 22.08.2024 passed by the 3rd respondent quash the same and consequently direct the respondents to grant 21 days leave without escort to the petitioner/Convict namely Mr.Madhesh S/o.Subramani (CT No.9821).



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For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor.

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

This petition has been filed seeking a Writ of Certiorarified Mandamus challenging the rejection order dated 22.08.2024 passed by the 3rd respondent, quash the same and consequently, direct the respondents to grant 21 days leave without escort to the petitioner/convict prisoner namely Mr.Madhesh S/o.Subramani (CT No.9821), who is presently confined at Central Prison Salem. The convict prisoner is convicted for the offences U/s.449 of IPC, and was imposed with three years rigorous imprisonment and to pay fine of Rs.1,000/- in default three months of simple imprisonment and also convicted U/s 302 for a life imprisonment and to pay a fine of Rs.5,000/- in default three months simple imprisonment by the Principal Sessions Court, Dharmapuri, in S.C.No.30 of 2013, dated 31.10.2014.



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2. The impugned order of rejection of leave application submitted by the petitioner/convict prisoner is rejected on the ground that an appeal, filed before the Hon'ble Supreme Court of India in Diary No.47987 of 2023, is pending. The main appeal has not yet been numbered. The learned counsel for the petitioner further submitted that the convict prisoner is in prison for about 4 years and seeks leave for arranging expenses for his children's studies and his wife's medical treatment.

3. At this juncture, the learned Additional Public Prosecutor Mr.E.Raj Thilak would submit that the convict prisoner is eligible for 21 days ordinary leave and thereafter brought to the notice of this Court that the petitioner's family is residing in the state of Karnataka and he will be leaving to the State of Karnataka in his leave period.

4. Mere filing of an appeal before the Hon'ble Supreme Court of India would not be a ground for rejecting the leave application since the convict prisoner is otherwise eligible to avail leave under the rules. Admittedly, the family of the convict prisoner is residing in the State of Karnataka. The convict prisoner is undergoing imprisonment for the past about 4 years.



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Considering the conduct and the eligibility of the convict prisoner, we are inclined to consider the present writ petition.

5. Accordingly, the impugned rejection order dated 22.08.2024, passed in proceeding no. 9821/ta.ku.3/2024 by the Superintendent of Prison, Central Prison at Salem, is quashed and the convict prisoner viz., Mr.Madhesh S/o.Subramani (CT No.9821), who is presently confined at Central Prison Salem, is hereby granted ordinary leave for a period of 21 days without escort commencing from **01.10.2024** on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., Mr.Madhesh S/o.Subramani (CT No.9821), confined at Central Prison Salem, on Ordinary Leave without escort for a period of 21 days commencing from **01.10.2024**.

(ii) The Convict Prisoner shall be released on 01.10.2024 at 10.00 a.m. and surrender before the Superintendent, Central Prison Salem, on 22.10.2024 at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Avala Hall Police Station, Bangalore, twice in a week at 10.00 a.m. during the period of leave.



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(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.

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

7. List the matter under the caption “For Reporting Compliance” on 23.10.2024.

(S.M.S.J.,)

(A.D.M.C.,J.)

25.09.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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To

1. The State rep. by its,
The Home Secretary (Prison Department),
St. George Fort, Chennai-009.
2. The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Gandhipuram,
Coimbatore-641018.
3. The Superintendent of Prison,
Central Prison at Salem,
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4. Public Prosecutor,
High Court of Madras.



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S.M.SUBRAMANIAM, J.

and

A.D.MARIA CLETE, J.

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