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W.P.No.27685 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

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

W.P.No.27685 of 2024

Sathish Kumar

... Petitioner

Vs.

1.The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai-600 008.

2.The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai-600 066.

... 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 in the order dated on 29.08.2024 bearing no.CP-PU1/1966/2024-R2 passed by respondent no.2 and quashing the same and directing the respondent-2 to grant ordinary leave for 40 days by without escort to the petitioner namely Sathish S/o Sabarathinam aged 58 years, Convict Prisoner, Convict No.4222, Central Prison, Puzhal.



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For Petitioner : Ms.S.Nadhiya
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 Impugned Order dated 29.08.2024 bearing no.CP-PU1/1966/2024-R2, passed by the 2nd respondent, quash the same and direct the 2nd respondent to grant ordinary leave for 40 days, without escort, to the petitioner namely Sathish S/o Sabarathinam aged 58 years, Convict Prisoner, Convict No.4222, Central Prison, Puzhal. The convict prisoner is convicted for the offences U/s.376 r/w 109, 3004 of IPC, and was imposed with life imprisonment by the Sessions Court, Pudhukottai, in S.C.No.1183 of 1194, dated 20.08.2017.

2. The impugned order of rejection of leave application submitted by the petitioner is rejected on the ground that prisoner is a Srilankan national and as per Clause 21J of Tamil Nadu Suspension of Sentence Rule, 1982, as



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amended in G.O.Ms.No.205, Home Prison Department, dated 25.04.2022, convicted foreigners are not eligible for ordinary leave.

3. The learned counsel for the petitioner submitted that the convict prisoner has been born and brought up in India and is undergoing imprisonment for about 26 years and seeks ordinary leave to take care of his aged mother who is suffering ailments.

4. At this juncture, the learned Additional Public Prosecutor Mr.E.Raj Thilak would submit that the convict prisoner is eligible for 40 days ordinary leave and also revealed that the prisoner had already availed leave for 321 days out of which 120 days were ordinary leave and 201 days were emergency leave. The convict prisoner surrendered on expiry of the leave period on earlier occasions and there is no adverse remarks made against the prisoner.

5. Considering the fact that the prisoner is undergoing imprisonment for the past about 26 years, he seeks ordinary leave to take care of his aged mother who is suffering ailments, and he is otherwise eligible for 40 days



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ordinary leave and there is no adverse report against the convict prisoner in the prison, we are inclined to grant ordinary leave of 40 days to the convict prisoner.

6. Accordingly, the impugned order dated 29.08.2024 passed by the 2nd respondent is quashed and the convict prisoner viz., Sathish S/o Sabarathinam aged 58 years, Convict Prisoner, Convict No.4222, Central Prison, Puzhal, is hereby granted ordinary leave for a period of 40 days without escort, commencing from **03.10.2024** on the following conditions.

(i) Respondents are directed to release the Convict Prisoner viz., Sathish S/o Sabarathinam aged 58 years, Convict Prisoner, Convict No.4222, Central Prison, Puzhal, on Ordinary Leave without escort for a period of 40 days commencing from **03.10.2024**.

(ii) The Convict Prisoner shall be released on 03.10.2024 at 10.00 a.m. and surrender before the Superintendent, Central Prison, Puzhal, on 12.11.2024 at 05.30 p.m.

(iii) The Convict Prisoner is directed to report before the Viralimalai Police Station, Pudukottai District, once in a



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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.

7. Accordingly, the writ petition stands **allowed**. No Costs.

(S.M.S.J.,)

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

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Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

1.The Deputy Inspector General of Prisons,
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Prison Head Quarters,
Whannels Road,
Egmore, Chennai-600 008.

2.The Superintendent of Prisons,
Central Prison-1,
Puzhal, Chennai-600 066.

3. Viralimalai Police Station,
Pudukottai District,

3.Public Prosecutor,
High Court of Madras.



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S.M.SUBRAMANIAM, J.

and

A.D.MARIA CLETE, J.

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