



WEB COPY



W.P.No.33501 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.33501 of 2024

Padmavathi

... Petitioner

Vs.

1. The Chief Secretary ,
Secretariat, Union Territory of Puducherry,
Puducherry.
2. The Director General of Police,
Puducherry.
3. The Inspector General of Prison,
Central Prison, Kalapattu,
Puducherry- 605 014.
4. The Chief Superintendent of Jails,
Government of Puducherry,
Jail Department,
Puducherry.
5. The Superintendent of Prison,
Central Prison, Kalapattu,
Puducherry-605 014.
6. The Inspector of Police,
Odiansalai Police Station,
Puducherry,
Cr.no.104 of 198.

... Respondents



W.P.No.33501 of 2024

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 relating to the order of rejection passed in No.4954/CON/OP/CSJ/JD/2024-25 dated 28.10.2024 on the file of the 4th respondent quash the same and direct the respondents to grant either ordinary leave or emergency leave for a period of 20 days to the petitioner's husband Mani @ Manikandan (Male/43 years), (Prisoner No.4954), who is confined in Central Prison, Kalapattu, Puducherry, based upon the application of the petitioner dated 30.09.2024 for surgery of the petitioner's minor son Adithya Varma (aged 3 years) who is critically suffering from fits and paralysis, to take treatment for his ailment, to see his new born female child, and to make financial arrangements for renovation of petitioner's house which is in dilapidated condition.

For Petitioner : Mr.S.Doraiswamy
For Respondents : Mr.K.S.Mohandoss
Public Prosecutor, Puducherry.

ORDER

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

The rejection of leave application submitted by the petitioner, who is the wife of the prisoner, vide proceedings dated 28.10.2024 is under challenge in the present writ petition.

2.The petitioner is the wife of the convict prisoner Mani @ Manikandan, aged about 43 years, Prisoner No.4954, who is confined in Central Prison,



W.P.No.33501 of 2024

Kalapattu, Puducherry. The prisoner was convicted and sentenced to undergo life imprisonment and the Criminal Appeals in CrI.A.Nos.379 & 489 of 2000 filed before the High Court was dismissed. The petitioner states that she has given birth to a female child and the Doctors diagnosed Jaundice in the new born baby and admitted the child for treatment. By citing the said grounds, leave application was filed.

3.The fourth respondent rejected the leave application on the ground that “serious illness certificate was not produced by the petitioner”. The prisoner is having pending cases in crime numbers (1) 101/2017 u/s.420, 120 (b), 427, 448, 324,395, 294 (b), 506 (ii) r/w 149 IPC of Odiansalai Police Station, Puducherry (2) 126/2024 u/s 308 (4) r/w 3 (5) of BNS of Rediyarpalayam Police Station, Puducherry and (3) 876/2020 u/s 147, 341, 302 r/w 109 IPC & r/w 3 of Explosive Substance Act of Kottakuppam Police Station, Puducherry. The above cases are registered when the prisoner was under trial. Therefore, the prisoner against whom cases are pending trial, leave cannot be granted by the fourth respondent.

4.Considering the period of actual imprisonment, we have asked the learned Public Prosecutor, Puducherry, to verify the genuinity of the reasons



W.P.No.33501 of 2024

stated by the petitioner in the leave application. On verification, the Deputy Director Cum Probation Officer, Puducherry, in his report dated 12.11.2024, has stated that they have conducted the enquiry and found that the new born baby of the petitioner has not been admitted in the Rajiv Gandhi Government Women & Children Hospital, Puducherry. The learned Public Prosecutor, Puducherry, would oppose by stating that the petitioner, who is wife of the prisoner herself is an accused No.2 in Crime No.126 of 2022.

5.In view of the fact that the reasons stated by the petitioner seeking emergency leave to the prisoner is found to be incorrect and considering the antecedents of the prisoner and taking note of the fact that the petitioner herself is involved in criminal cases, we are not inclined to consider the relief as such sought for in the writ petition. That apart, the prisoner has recently availed 10 days emergency leave from 01.02.2024 to 10.02.2024, pursuant to the orders of this Court dated 29.01.2024, in W.P.No.34362 of 2023.

6.For all these reasons, the writ petition stands dismissed. No costs.

[S.M.S., J.] [M.J.R., J.]
13.11.2024

sli
Index: Yes/No
Speaking/Non-speaking order



W.P.No.33501 of 2024

To

1. The Chief Secretary ,
Secretariat, Union Territory of Puducherry,
Puducherry.
2. The Director General of Police,
Puducherry.
3. The Inspector General of Prison,
Central Prison, Kalapattu,
Puducherry- 605 014.
4. The Chief Superintendent of Jails,
Government of Puducherry,
Jail Department,
Puducherry.
5. The Superintendent of Prison,
Central Prison, Kalapattu,
Puducherry-605 014.
6. The Inspector of Police,
Odiansalai Police Station,
Puducherry,
Cr.no.104 of 198.
7. The Public Prosecutor
High Court of Madras.



WEB COPY



W.P.No.33501 of 2024

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

sli

W.P.No.33501 of 2024

13.11.2024