



WEB COPY



W.P.No.35737 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.35737 of 2024

Kesavan

... Petitioner

Vs.

1.The State rep. by its,
The Home Secretary (Prison Department),
St.George Fort, Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Vellore Range, Ramset Nagar,
Thorapadi, Vellore – 2.

3.The Superintendent of Prison,
Central Prison at Vellore, Ramset Nagar,
Thorapadi, Vellore – 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to grant 21 days Ordinary leave without escort to the petitioner, namely,



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Kesavan, S/o.Bairappa (CT No.3793) who is confining in 3rd respondent in pursuance of the order of this Court in W.P.No.32492 of 2024 dated 30.10.2024 and petitioner's wife representation dated 31.10.2024.

For Petitioner	: Mrs.S.Nadhiya
For Respondents	: Mr.R.Muniyapparaj
	Additional Public Prosecutor

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The writ of mandamus has been instituted to direct the respondents to grant 21 days ordinary leave to the prisoner.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.The Prisoner is in actual imprisonment for about two years and six months. The application submitted by the Prisoner seeking ordinary leave was not considered. Thus the Prisoner filed W.P.No.32492 of 2024. The said writ petition was disposed of by this Court on 30.10.2024 directing the respondents to dispose of the leave application within a period of one week. Since the respondents have not passed any orders pursuant to the direction,



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the petitioner is constrained to move the present writ petition. The respondents are expected to comply with the orders of this Court in time.

Since no order has been passed as per the earlier direction, we are inclined to take the present writ petition on merits.

4.The Probation Officer's report reveals that the reason stated that the Prisoner has to make arrangements for livelihood is incorrect. The family of the Prisoner are maintaining the children by earning themselves and therefore, the reason stated in the leave application cannot be considered. However, the Probation officer has not stated anything adversely against the Prisoner. He has neither recommended nor provided adverse finding.

5.Considering the fact that the Prisoner is in actual imprisonment for two years and six months and he has to spend some time with the family, we are inclined to consider the present writ petition. Accordingly, the Prisoner is granted ordinary leave for 21 days without escort, on the following conditions:

- (1)The respondents are directed to release the Convict Prisoner viz., Kesavan, S/o.Bairappa, confined at Central Prison, Vellore, on



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Ordinary Leave for a period of twenty one (21) days without escort i.e., from 09.12.2024 to 29.12.2024.

- (2) The Convict Prisoner shall be released on 09.12.2024 at 10.00 A.M. and surrender before the Superintendent of Prisons, Central Prison, Vellore, on 29.12.2024 at 05.00 P.M.
- (3) The Convict Prisoner is directed to report before the Inspector of Police, Veppanapalli Police Station, Krishnagiri District, twice in a week i.e., on every Monday and Thursday at 11.00 A.M, during the period of leave.
- (4) During the leave period, the Convict Prisoner shall abide by all the conditions prescribed in the Jail Manual.
- (5) 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.

5. With the above directions, this Writ Petition stands allowed. No costs.

[S.M.S., J.] [M.J.R., J.]
03.12.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking order / Non-speaking order

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To

The Home Secretary (Prison Department),
St.George Fort, Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Vellore Range, Ramset Nagar,
Thorapadi, Vellore – 2.

3.The Superintendent of Prison,
Central Prison at Vellore, Ramset Nagar,
Thorapadi, Vellore – 2.

4.The Additional Public Prosecutor,
Madras High Court.



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