



W.P. No.35766 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P. No.35766 of 2023

M. Muruganandam

Vs.

...Petitioner

1. The Secretary to Government,
Home Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Director General of Police and
Director General of Jails,
Egmore, Chennai 600 008.
3. The Superintendent of Prisons,
Central Prison - 1,
Puzhal, Chennai 600 066.
4. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zone Unit, Chennai 600 090

... Respondents



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Prayer :- Writ Petition filed under Section 226 of the Constitution of India praying to issue a writ or direction or any other writ in nature of Writ of Mandamus directing the 3rd respondent to consider the representation of the petitioner dated 10.10.2023 and direct the 3rd respondent to grant parole leave for a period of 60 days to the petitioner , who is confined at Central Prison, Puzhal-i, Chennai 600 066.

For Petitioner : Ms.S. Sujatha
For Respondents : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Mr. Aravind, C.

ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This writ petition has been filed for issuance of a Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation to grant parole for a period of 60 days.

2. The petitioner is a convict prisoner, who has been convicted for an offence under Section 8(c) r/w 23 r/w 28 of Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and sentenced to undergo 10 years imprisonment, vide judgment dated 21.11.2019 by the Additional Special Judge for NDPS Court in C.C. No.17 of 2016 in F.No.48/1/2016-NCB-MDS. The



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petitioner sought for ordinary leave on the ground that his mother is suffering from Cardiac ailment and had suffered heart attack. However, the said representation was not considered by the authorities and hence, the present Writ Petition.

3. The learned Additional Public Prosecutor, on instructions, submitted that in view of the provisions under the Tamil Nadu Suspension of Sentence Rule, which bars grant of parole to heinous offences, the respondents cannot consider the petitioner's request for leave, though the Probation Officer has recommended the grant of leave to the petitioner.

4. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of ***Dadu Alias Tulsidas vs. State of Maharashtra*** reported in ***(2000) 8 Supreme Court Cases 437*** in support of his submission that Section 32-A of NDPS Act would not affect the powers of the authorities to grant parole. Considering the said decision, a Coordinate Bench of this Court in W.P. No.22285 of 2023, had granted leave to the convict prisoner in exercise of powers under Article 226 of the Constitution of India.



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5. On a perusal of the reasons stated in the affidavit, this Court is of the view that the petitioner can be granted ordinary leave for a period of 28 days, which he would otherwise be entitled to but for his conviction under NDPS Act. It is also stated by the learned counsel for the petitioner that the petitioner's daughter's marriage is scheduled in the month of February 2024. Accordingly, we grant 28 days of ordinary leave to the petitioner without escort subject to the usual conditions that can be imposed by the respondents and this Writ Petition is ordered on the following terms:

- (1) The convict shall be released from the prison at 10.00 a.m on 01.02.2024 and he shall return back to the prison at 06.00 p.m. on 28.02.2024.
- (2) During the aforesaid leave period, the convict prisoner shall report before Manpparai Police station, Trichy District, on every Monday and Thursday of a week at 10.30 a.m.

(M.S.R., J.) (S.M., J.)
19.01.2024

bga
Internet : Yes
Index : Yes / No



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To

WEB COPY

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2. The Director General of Police and
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3. The Superintendent of Prisons,
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4. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zone Unit, Chennai 600 090
5. The Inspector of Police,
Manpparai Police station, Trichy District.
6. The Public Prosecutor
High Court, Madras.



WEB COPY



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

bga

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