



W.P.(MD).No.1374 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

W.P.(MD).No.1374 of 2024

Selvarani

.. Petitioner

Vs.

1.The Deputy Inspector General of Prison,
O/o. The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road,
Madurai.

2.The Superintendent of Prison,
Central Jail,
Palayamkottai,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for records of the impugned order passed by the respondent No.1 in No.42/Vu.Tha.2/2024 dated 04.01.2024, quash the same and further direct the respondent No.1 to grant ordinary leave for period of 40 days without escort to petitioner's



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husband namely Balamurugan, CP.No.4849 who is 5 years convict prisoner in a rape case and languishing in Palayamkottai Central Jail for the period of above 2 years.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The present Writ Petition is filed seeking issuance of Certiorarified Mandamus to quash the impugned order dated 04.01.2024 and grant ordinary leave for 40 days without escort to the petitioner's husband.

2. The petitioner is the wife of one Balamurugan, who is convicted and sentenced to undergo five years of rigorous imprisonment for the offence under Section 376 IPC (pre-amendment) and confined in Palayamkottai Central Prison. The petitioner's request to grant ordinary leave for her husband to attend her, who is suffering from medical ailments, was considered by the prison authorities positively vide order dated



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04.01.2024 and 21 days of ordinary leave was granted to the petitioner's husband with escort. The said order is under challenge in the present Writ Petition.

3. The learned counsel appearing for the petitioner submits that the petitioner has sought leave for her husband to attend her medical ailments and the presence of escort while she is in the hospital may cause embarrassment and inconvenience.

4. The learned Additional Public Prosecutor appearing for the respondents submits that the petitioner's husband was acquitted by the Trial Court and on appeal by the State, the judgment of acquittal was set aside and the petitioner's husband was convicted and sentenced to undergo five years of rigorous imprisonment. He would further submit that for the first time, leave is granted to the convict. Hence, the conduct of the convict has to be tested and if he is let free without escort, there is a possibility of abscondence and also submitted that the 21 days leave is sufficient to attend the petitioner's medical ailments.



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5. Considering the submissions on either side, this Court is of the view that the grant of 21 days of ordinary leave is the discretion of the prison authorities and this Court finds no reason to interfere with the same. However, this Court finds some force in the submission made by the learned counsel for the petitioner regarding escort. In order to ensure that there is no violation on the leave conditions and to ensure that the convict returns back to the prison on expiry of the leave period, it is suffice to direct the convict to report before the Inspector of Police, Kovilpatti East Police Station, Tuticorin, which is nearest to his residence, daily twice, by 10.00 AM and 5.00 PM during the leave period. Thus, the impugned order dated 04.01.2024 passed by the first respondent is modified to the above effect.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

(G.J.,J.) (C.K.,J.)
27.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

1. The Deputy Inspector General of Prison,
O/o. The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road,
Madurai.

2. The Superintendent of Prison,
Central Jail,
Palayamkottai,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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