



W.P.(MD)No.1251 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND**

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

Writ Petition(MD)No.1251 of 2024

Balakrishnan

: 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 Police,
Central Jail,
Palayamkottai,
Tirunelveli District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Certiorarified Mandamus to set aside the



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impugned order passed by the respondent No.2 in No.2344/Vu.Tha.2/2023 dated 30.11.2023 and further the respondent No.1 and 2 to grant ordinary leave for the period of 40 days without escort to the petitioner's son namely Prabhakaran who is life convict prisoner in a murder case and languishing in Palayamkottai Central Jail for the period of 8 years.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.S.Ravi
Addl. Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.

and

C.KUMARAPPAN,J.

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



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2. The petitioner herein is the father of the detenu, by name, Prabakaran. His request for 40 days ordinary leave was not considered by the prison authorities. Therefore, earlier, he filed a writ petition in W.P(MD)No.26596 of 2023 before this Court to consider the representation. This Court, on 10.11.2023, disposed of the said writ petition with the direction to consider the representation dehors the bar under Rule 21(d) of the Suspension of Sentence Rules, in the light of the Judgment in **Akram Khan's** case. This Court directed the authorities to dispose of the representation within a period of three weeks from 01.12.2023. Pursuant to the said direction, the authorities have considered the representation and rejected the representation on the ground that the prison authorities have not recommended for grant of ordinary leave, since the reasons stated have not been supported by documents.

3. The learned Additional Public Prosecutor submitted that the Convict has sought for 40 days ordinary leave without escort citing the ill-health of his mother. Though he has claimed that his mother seriously ill and needs his presence to take care, there is no supportive documents to



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substantiate the said representation. Therefore, the prison authorities declined to recommend for granting leave.

4. The learned counsel for the petitioner referred a medical certificate issued by a private doctor, wherein, it is stated that Tmt.B.Chithra, 65 years, Female, Mother of Prabhakaran, LCT 4908 suffers from Hypertension, COPD Diabetic Nephropathy & Chronic Renal Disease. She is very very seriously ill. This Certificate sans diagnostic report had made the authorities to reject the representation.

5. This Court holds that the said rejection is in consonance with the procedural law. Unsupported medical certificate by a private doctor may not be sufficient for the authorities to take conscious decision whether the life Convict has to be granted ordinary leave invoking the exceptional clause contemplated under Rule 40. Hence, this Court finds no merit in this writ petition. Accordingly, this writ petition is dismissed. However, the Convict or his relatives are at liberty to make a fresh representation with all necessary medical records for leave and the same may be considered by the



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(G.J.,J.) (C.K.,J.)
19.03.2024

skn

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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 Police,
Central Jail,
Palayamkottai,
Tirunelveli District.

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



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and
C.KUMARAPPAN,J.

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Order made in
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