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W.P.(MD) No.2110 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD) No.2110 of 2024

Sornam

... 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

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to set aside the impugned order passed by the first respondent in No.21/U.Th.2/2024, dated 10.01.2024, without escort to the petitioner's son, namely, Manickaraj @ Manraj @ Manro (LCT No.3874), who is convicted in one murder case and languishing jail in Palayamkottai Central Jail for the past seven years.



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For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Prayer in this writ petition is to quash the order dated 10.01.2024, passed by the first respondent, rejecting the petitioner's representation dated 01.11.2023 seeking grant of ordinary leave for her son.

2. The case of the petitioner is that her son Manickaraj @ Manraj @ Manro is a life convict and he is incarceration from the year 2017 pursuant to the Judgment dated 17.03.2017, passed in S.C.No.47 of 2012, by the Fast Track Mahila Court, Nagercoil. The appeal before this Court and the Special Leave Petition before the Supreme Court filed by him were also dismissed confirming the conviction and sentence imposed by the Trial Court. Her son is in prison for the past seven years without any adverse remarks and he has not availed any leave sofar.

3. It is the further case of the petitioner that she is suffering from thyroid and she has undergone a surgery and in order to meet out the medical



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expenses, she wants to sell the properties, for which, the presence of her son, who is in incarceration, is required. Therefore, she made a representation dated 01.11.2023 to the respondents seeking grant of thirty days ordinary leave to her son. However, the same has been rejected by the impugned order of the first respondent. Therefore, the present writ petition.

4. Mr.S.M.A.Jinnah, learned counsel for the petitioner would submit that the petitioner's son is in incarceration for the past seven years and so far there is no adverse remarks against him. Till date, he has not availed any leave and the Probation Officer has also recommended for grant of ordinary leave to the petitioner's son. However, based on the report of the Inspector of Police, Vadaseri Police Station, stating that there is a likelihood of breach of peace, the first respondent has rejected the petitioner's request.

5. The first respondent has filed a detailed counter affidavit.

6. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, on instructions, submits that the petitioner's son, apart from the murder case, for which he undergoes imprisonment, was involved in seven other cases and in those case, he was acquitted. Hence, the Vadasery Police apprehends



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breach of peace and life threat against the petitioner's son from the rival parties, who are living in the nearby locality. He would further submit that if this Court grants ordinary leave to the petitioner's son, he may be granted leave for a shorter period with escorts and depending upon the circumstances, the leave may be extended.

7. By way of reply, Mr.S.M.A.Jinnah, learned counsel for the petitioner, would submit that the Probation Officer, while recommending the case of the petitioner's son for grant of ordinary leave, has stated that the rival parties are not residing in the nearby locality. However, based on the report submitted by the Inspector of Police, Vadasery Police Station, which is without any basis, the petitioner's request has been rejected. He would further submit that the parents of the life convict are aged and the family is below the poverty line and therefore, the escort charges may not be collected from him.

8. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and carefully perused the materials available on record.



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9. From the materials available, we find that there are conflict reports. The Probation Officer has recommended for grant of ordinary leave to the petitioner's son. However, the Vadasery Police have objected for the same. However, taking into consideration of the facts that the petitioner's son is in incarceration for the past seven years and so far he has not availed any leave and he has no adverse remarks, we are inclined to set aside the impugned order passed by the first respondent.

10. In the result,

- (i) The writ petition is allowed.
- (ii) The impugned order dated 10.01.2024, passed by the first respondent, is set aside.
- (iii) The convict prisoner, namely, Manickaran @ Manraj @ Manro (LCT No.3874) shall be granted ordinary leave for a period of seven (7) days from 08.04.2024 to 14.04.2024.
- (iv) During the said leave period, he shall report before the Inspector of Police, Vadaseri Police Station, Kanniyakumari District, daily at 06.00 p.m., without fail.



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- (v) He shall report back to the Superintendent of Prison, Central Prison, Palayamkottai / second respondent, by 10.00 a.m., on 15.04.2024.
- (vi) Necessary escort shall be provided to accompany the convict prisoner.
- (vii) The escort charges shall be borne by the petitioner and if necessary, the same shall be adjusted from the income earned by the convict prisoner during the imprisonment period.
- (viii) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities.
- (ix) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.
- (x) No costs.

[A.D.J.C., J.] [K.R.S., J.]

03.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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O/o.The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road.
- 2.The Superintendent of Prison,
Palayamkottai Central Jail,
Palayamkottai,
Tirunelveli District.
- 3.The Inspector of Police,
Vadaseri Police Station,
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AND
K.RAJASEKAR, J.

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