



W.P.(MD) No.5701 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2024

CORAM:

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

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Jasmin Farvin

... Petitioner

-vs-

1.The Principal Secretary to Government
Home, Prohibition and Excise(Prison-IV) Department
Fort St.George, Secretariat,
Chennai-600 009

2.The Inspector General of Prison
O/o. Prison Department Headquarters,
Whannels Road,
Egmore, Chennai- 8

3. The Deputy Inspector General of Police
Trichy Range, Race Course Road,
Trichy- 620 023

4.The Superintendent of Prison
Central Prison, Trichy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent vide her proceedings in No.



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106/MuVu/2024 dated 09.02.2024 and quash the same as illegal and void and then consequent direction may be issued to the respondents to grant 21 days ordinary leave to petitioners husband Jahaber Sathik, S/o.Haja Allavudeen (Convict Prisoner No.23731) confined at Central Prison, Tiruchirappalli within stipulated time

For Petitioner : Mr.C.Karthikeyan

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

ORDER

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

The prayer in the present petition is to quash the impugned order passed by the third respondent vide proceedings in No.106/MuVu/2024 dated 09.02.2024 and to direct the respondents to grant 21 days ordinary leave to petitioner's husband Jahaber Sathik, S/o.Haja Allavudeen (Convict Prisoner No.23731) confined at Central Prison, Tiruchirappalli.

2. It is the case of the petitioner that her husband is a life convict and suffering imprisonment from 25.03.2021 and since he has not availed ordinary leave, the petitioner had sent a representation on 31.01.2024



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seeking 21 days ordinary leave for her husband to arrange funds for education of their children. However the same was rejected on 09.02.2024 on the ground that the husband of the petitioner has not completed three years of imprisonment. Pending this petition the period of three years imprisonment had got completed and thereby the petitioner had sent a fresh representation on 01.04.2024, however no orders have been passed till date.

3. The learned Additional Public Prosecutor would submit that the earlier representation was rejected only on the ground that the husband of the petitioner had not completed three years of imprisonment, whereas the representation dated 01.04.2024 is also rejected by the respondent on 18.04.2024 on the basis of the report of the local jurisdiction police apprehending untoward incident and breach of peace from the family members of the victim.

4. In reply the learned counsel for the petitioner would submit that the earlier representation was rejected only on the sole ground that the period of three years imprisonment was not over. However the reasons for rejection cannot be justified since the husband of the petitioner was granted bail pending trial and he was living in the same village and during such time no



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untoward incident had happened. Further only from 25.03.2021 the petitioner is in custody.

5. Heard the learned counsels appearing on both sides and perused the materials available on record.

6. Though the challenge has been made to the earlier rejection order pursuant to the fresh representation rejection order has been passed by the respondent on 18.04.2024. Though the present order of rejection has not been challenged by the petitioner we could see that the Probationary Officer had recommended for grant of ordinary leave whereas based on vague statements of jurisdiction police the representation of the petitioner has been rejected. In the case of rejection on vague grounds this Court in W.P(MD) No. 21987 of 2023 has observed as follows:

4. In the impugned order, reliance has been placed on the report of the Probation Officer and the jurisdictional police. On perusal of the original file produced by the learned Additional Public Prosecutor, the Probation Officer has made a reference to the observations of the jurisdictional Police stating that there is a likelihood of danger to the life of the petitioner's son, if he is released on ordinary leave, since he has murdered his own wife. A mere apprehension that there could be some danger to a life convict prisoner, if he is released on ordinary leave, will not be sufficient,



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unless such a statement is substantiated with other statements and evidences. It is needless to point out that in all cases where a conviction of life imprisonment is granted for a prisoner involved in an offence under Section 302 IPC, such a vague statement can always be made for rejecting the request for grant of ordinary leave. In this background, we are of the view that if the petitioner's son is imposed with a condition to report before the jurisdictional Police at least twice in a day during the entire course of his leave period, the ends of justice could be secured.

7. In view of the same we find that the reasons stated for rejection is vague. Though the order has not been challenged, we are inclined to set aside the impugned order passed by the third respondent.

8. In the result,

- (i) The writ petition is allowed.
- (ii) The impugned order dated 09.02.2024, passed by the third respondent, is set aside.
- (iii) The convict prisoner, namely, Jahaber Sathik(34/2021) S/o. Haja Allavudeen, Main Road, Aduthurai now at Ezhil Nagar, Bazeer Complex, Aduthurai(Life Convict Prisoner No. 23731) shall be granted ordinary leave for a period of 21 days from



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27.04.2024 to 17.05.2024.

- (iv) During the said leave period, he shall report before the Inspector of Police, Thiruvudaimaruthur Police Station, Thanjavur District , daily at 9.00 a.m., and 06.00 p.m., without fail.
- (v) He shall report back to the Superintendent of Prison, Central Prison, Trichy / fourth respondent, by 05.00 p.m., on 17.05.2024.
- (vi) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.
- (vii) No costs.

[A.D.J.C., J.]

[K.R.S., J.]

22.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Note: Issue order copy on 26.04.2024



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To:

- 1.The Principal Secretary to Government
Home, Prohibition and Excise(Prison-IV) Department
Fort St.George, Secretariat,
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- 2.The Inspector General of Prison
O/o. Prison Department Headquarters,
Whannels Road,
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3. The Deputy Inspector General of Police
Trichy Range, Race Course Road,
Trichy- 620 023
- 4.The Superintendent of Prison
Central Prison, Trichy

Copy to

The Inspector of Police
Thiruvidaimaruthur Police Station,
Thanjavur District



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A.D.JAGADISH CHANDIRA, J.
AND
K.RAJASEKAR, J.

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