



W.P.(MD)No.10081 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.04.2024

CORAM

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

W.P.(MD).No.10081 of 2024

Karthikeyan

.. Petitioner

Vs.

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

2.Inspector General of Prisons,
O/o.Prison Department Headquarters,
Whannels Road,
Egmore, Chennai-600 008.

3.The Deputy Inspector General of Prisons,
Office of Deputy Inspector General of Prisons,
Race Course Road,
Trichy-620 023.

4.The Superintendent of Prisons,
Central Prison,
Trichy-620 020.

.. Respondents



W.P(MD)No.10081 of 2024

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 third respondent vide her proceedings in No.106/MuVu/2024, dated 20.02.2024 and quash the same as illegal and void and then consequently grant 40 days ordinary leave without police escort to the petitioner Karthikeyan, S/o.Dhas, Convict Prisoner No.21122, confined at Central Prison, Tiruchirappalli based on the petitioner's representations dated 17.11.2023 and 18.12.2023.

For Petitioner : Mr.C.Karthikeyan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA,J.)

The present Writ Petition is filed for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent vide her proceedings in No.106/MuVu/2024, dated 20.02.2024 and quash the same as illegal and void and consequently grant 40 days ordinary leave without police escort to the petitioner Karthikeyan, S/o.Dhas, Convict Prisoner No.21122, confined at Central Prison,



W.P(MD)No.10081 of 2024

Tiruchirappalli based on the petitioner's representations, dated 17.11.2023 and 18.12.2023.

2. The case of the petitioner is that he was convicted by the learned Principal Sessions Judge in S.C.No.33 of 2010 and sentenced to Life Imprisonment. Aggrieved over the same, the petitioner has filed an appeal before this Court in CrI.A(MD)No.419 of 2016 and the same was also dismissed and that he has not filed any appeal before the Hon'ble Apex Court and right from the date of arrest, he is in prison for more than 14 years. He was already granted ordinary leave one time for 30 days in the year 2020 and granted emergency leave on several occasions. Since the petitioner's wife suffering from illness and her condition is critical she had made a representation dated 17.11.2023 seeking to grant 40 days ordinary leave. Whereas, the respondents had rejected the same stating the reason that he has been convicted under Section 364(A) IPC and as per the amended Rule 21(h)(2) of Suspension Sentence Rule, he is not eligible for ordinary leave. Challenging the same, the present writ petition has been filed for setting aside the impugned order.



W.P(MD)No.10081 of 2024

3. The learned counsel for the petitioner would submit that the petitioner was convicted in the year 2017 and thereafter, he had gone on ordinary leave for 30 days during the year 2020 and he had also been granted emergency leave for 18 times. He would further submit that the amendment had come into effect on 25.04.2022 and it cannot be given retrospective effect in respect of the petitioner's case, who has been convicted in the year 2017 and seeking to allow the writ petition.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner has been convicted under Section 364(A) of IPC. He fairly conceded that the petitioner has already been granted 30 days ordinary leave and thereafter he has also been granted emergency leave for 18 occasions and he has duly complied with the earlier order. Now, he is eligible for 28 days ordinary leave.

5. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.



W.P(MD)No.10081 of 2024

6. It is seen from the records that the petitioner has been convicted in the year 2017 and right from the date of arrest, he is in prison and earlier the petitioner has been granted ordinary leave for 30 days and emergency leave for 18 occasions. The amendment has come into effect on 25.04.2022 and as such, the retrospective effect cannot be given to the petitioner, who has been convicted in the year 2017. Therefore, this Court is inclined to set aside the impugned order.

7. Accordingly, this writ petition is allowed and the impugned order passed by the third respondent, dated 20.02.2024 is set aside directing the third respondent to grant ordinary leave to the petitioner for 28 days without escort. The respondents are entitled to impose necessary conditions. The convict should also report before the Inspector of Police, K.K.Nagar Police Station, Trichy daily at 06.30 pm during the period of ordinary leave. He shall duly comply with the conditions. No costs.

(A.D.J.C.,J.) (K.R.S.,J.)
29.04.2024

NCC : Yes / No
Index : Yes / No
am



W.P(MD)No.10081 of 2024

To

WEB COPY

1. The Principal Secretary to Government,
Home, Prohibition and Excise (Prison-IV),
Fort St. George,
Chennai-600 009.
2. Inspector General of Prisons,
O/o.Prison Department Headquarters,
Whannels Road,
Egmore, Chennai-600 008.
3. The Deputy Inspector General of Prisons,
Office of Deputy Inspector General of Prisons,
Race Course Road,
Trichy-620 023.
4. The Superintendent of Prisons,
Central Prison,
Trichy-620 020.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.P(MD)No.10081 of 2024

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

am

W.P.(MD).No.10081 of 2024

29.04.2024