



W.P.(MD).No.8752 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.04.2024

CORAM

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

W.P.(MD).No.8752 of 2024
and
W.M.P.(MD).No.7997 of 2024

Karthiga

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (Prison-IV),
Fort St.George,
Chennai - 600 009.
- 2.The Director General of Prisons,
O/o.Tamil Nadu Prisons Headquarters,
Whannels Road,
Egmore,
Chennai - 600 008.
- 3.The Deputy Inspector General of Prisons,
Madurai Range,
Central Prison Campus,
Madurai - 625 016.
- 4.The Superintendent of Prisons,
Central Prison,
Madurai - 625 016.

.. Respondents



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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 his proceedings in No.2318/உத.2/2023 Dated : 30.11.2023 and quash the same as illegal and void and then consequently grant 30 days ordinary leave with police escort to petitioner's brother Selvakumar S/o.Pandithevar (C.P.No.6029), confined at Central Prison, Madurai forthwith, by considering petitioner's representation dated 19.10.2023.

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 order dated 30.11.2023, passed by the third respondent, rejecting the petitioner's representation seeking to grant 30 days ordinary leave for her brother, Selvakumar, who is a life convict, is under challenge in the present Writ Petition.

2. The learned counsel for the petitioner would submit that the petitioner's brother was arrested on 15.03.2016 in a case registered by the



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Udumalpet Police Station in Crime No.194 of 2016 for the offences under Sections 147,148, 307, 302 and 109 IPC and Section 3(2)(v)(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. He would further submit that the petitioner's brother was not granted bail during trial and after trial, he was found guilty and was convicted and sentenced to undergo death sentence by the Principal District and Sessions Court, Tiruppur. On reference, this Court modified the sentence to life imprisonment and the petitioner's brother is now undergoing imprisonment as a life convict in the fourth respondent jail from the date of arrest. He would also submit that the petitioner's brother, for the past eight years, has not gone either on emergency leave or on ordinary leave and that he has completed almost eight years of imprisonment.

3. The learned counsel for the petitioner would further submit that the petitioner's mother, aged about 73 years, is suffering from Acute Exacerbation of COPD and she is on treatment and that her condition is also critical. Hence, the petitioner applied for ordinary leave for her brother, whereas, the third respondent, stating that the Probation Officer and the



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local jurisdictional Police have not recommended the case of the jail inmate, has rejected the representation. He would further submit that the report of the Probation Officer and the local jurisdictional Police is without any basis and thereby, cannot be justified. The alleged incident is said to have happened in Udumalpet, Tiruppur District, whereas, the petitioner's mother is a resident of Sindhalagundu, Dindigul District and the apprehension that there is likelihood of breach of peace is also unfounded. Other than that, the petitioner's brother is eligible for ordinary leave and without any justification, the petitioner's representation has been rejected and would seek for setting aside of the impugned order. The learned counsel also submitted that the petitioner's brother undertakes to abide by any condition imposed by the Court and he also undertakes that during the leave period, he will not indulge in any other activities other than the purpose for which the ordinary leave is sought for and he will not give any interview to any media including social media.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner's brother is involved in a case



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of honour killing and that the Probation Officer had, after enquiry, found that the release of the petitioner's brother would result in law and order problem in that area and thereby, the third respondent has rejected the case of the petitioner.

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

6. We find that the petitioner's brother, who is a life convict, is in jail for the past eight years and as per the Rules, he is eligible for ordinary leave, whereas, the third respondent, stating that the Probation Officer and the local jurisdictional Police have not recommended the case of the jail inmate, has rejected the petitioner's representation. Admittedly, the alleged incident had happened at Udumalpet in Tiruppur District and the jail inmate is a native of Sindhalagundu, Dindigul District, which is far away. Further, so many years have also lapsed after the alleged incident. Hence, the order of rejection cannot be justified and thereby, the impugned order is liable to be set aside.



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7. In the result,

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(i) This Writ Petition is allowed.

(ii) The impugned order passed by the third respondent dated 30.11.2023 is set aside. However, taking into consideration all the objections raised by the learned Additional Public Prosecutor, the convict prisoner, namely, Selvakumar (C.P.No.6029), shall be granted ordinary leave for a period of 10 days with escort.

(iv) 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.

(v) The convict prisoner shall report back to the Superintendent of Prison, Central Prison, Madurai / fourth respondent on expiry of the leave period without fail.

(vi) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities.

(vii) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual and as per the undertaking that he shall not indulge in any other activities other than the purpose for which



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the leave is sought for and he shall not give interview in any media including social media.

(viii) No costs. Consequently, connected miscellaneous petition stands closed.

(A.D.J.C.,J.) (K.R.S.,J.)
25.04.2024

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (Prison-IV),
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- 2.The Director General of Prisons,
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- 4.The Superintendent of Prisons,
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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