



W.P.(MD).No.8942 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.04.2024

CORAM

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

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Paranjothi

.. Petitioner

Vs.

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

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

3.The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy – 620 023.

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

.. 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 her proceedings in No.106/MuVu/2024 dated 19.03.2024 and quash the same as illegal and void and then consequently directing the respondents to grant 28 days ordinary leave without police escort to petitioner's cousin Velmurugan, S/o.Chinnaiyan (Convict Prisoner No.23454) lodged at Central Prison, Tiruchirappalli, forthwith by considering his representation dated 09.02.2024.

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 19.03.2024, passed by the third respondent, rejecting the petitioner's representation seeking to grant 28 days ordinary leave for his cousin brother, Velmurugan, who is a convict prisoner, is under challenge in the present Writ Petition.

2. The learned counsel for the petitioner would submit that the prison inmate, who is the cousin brother of the petitioner, was convicted and



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sentenced to undergo seven years of rigorous imprisonment and to pay a fine of Rs.2000/-, in default to undergo one year simple imprisonment for the offence under Section 452 IPC. He was also convicted and sentenced to undergo five years of rigorous imprisonment with a fine of Rs.2000/-, in default to undergo one year simple imprisonment for the offence under Section 8 of POCSO Act, 2012.

3. The learned counsel for the petitioner further submitted that the prison inmate's wife, namely, Anbarasi is suffering from subclinical hypothyroidism and needs to be treated as in patient and thereby, the petitioner has sent a representation to the respondents on 09.02.2024, seeking 28 days of ordinary leave for his cousin, Velmurugan. However, the third respondent, citing reasons that there is an apprehension of danger to the life of the prison inmate from the victim's family and there is a possibility of the prison inmate absconding while on leave, has rejected the representation. The learned counsel would also submit that the offence is alleged to have taken place in the year 2014 and the prison inmate was on bail during trial and the date of conviction is 28.02.2020. While the prison inmate was on bail, no untoward incident had happened. He further



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submitted that from the year 2020, the prison inmate has not gone on leave and he satisfies all the conditions and is otherwise eligible for ordinary leave and the rejection order is passed without any justification.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the prison inmate, though otherwise eligible for ordinary leave for 21 days having completed four years of imprisonment after conviction, the third respondent, based on the report of the jurisdictional Police that there is an apprehension of danger to the life of the prison inmate and there is a possibility of him absconding, had rejected the representation.

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

6. We find that the alleged incident had taken place during the year 2014 and that the petitioner's cousin has been convicted during the year 2020. He was granted bail pending trial. During such time, no untoward incident has been reported. Further, the apprehension of the jurisdictional



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Police that the prison inmate is likely to abscond, is also not based on any valid material. Therefore, we do not find any justification in the order of the third respondent rejecting the representation and the impugned order is liable to be set aside.

7. In the result,

(i) This Writ Petition is allowed.

(ii) The impugned order passed by the third respondent dated 19.03.2024 is set aside. However, taking into consideration the objections raised by the learned Additional Public Prosecutor, the convict prisoner, namely, Velmurugan (C.P.No.23454), shall be granted ordinary leave for a period of 21 days with escort.

(iii) 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.

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



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

(vi) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.

(vii) There shall be no order as to costs.

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

NCC : Yes / No
Index : Yes / No
Lm

To

1. The Principal Secretary to Government,
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Chennai - 600 009.

2. The Inspector General of Prisons,
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4.The Superintendent of Prisons,
Central Prison,
Trichy – 620 020.

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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