



WEB COPY

W.P.(MD) No.8955 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

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

W.P.(MD) No.8955 of 2024

Maarikannu

... Petitioner

-VS-

The State represented by its

- 1.The Secretary to Government of Tamil Nadu
Home Department
(Prison Branch-IV)
Fort St.George, Chennai-600 009
- 2.The Deputy Inspector General of Prison
Trichy Range, Trichy-620 020
- 3.The Superintendent
Trichy Central Prison
Trichy-620 020

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order bearing No.106/Mu.Vu/2023, dated 21.02.2024, passed by



W.P.(MD) No.8955 of 2024

the second respondent and quash the same and consequently direct the respondents to grant ordinary leave for thirty days without escort to the detainee, Ilavarsan, son of Muniyappan, aged about 27 years, Convict No. 23167, confined at Central Prison, Trichy.

For Petitioner : Ms.K.Akshaya

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

ORDER

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

The order dated 21.02.2024, passed by the second respondent, rejecting the petitioner's representation seeking to grant thirty days ordinary leave to her husband / convict, is under challenge in this writ petition.

2. It is the case of the petitioner that her husband / convict was convicted by the learned District and Sessions Judge, Fast Track Mahila Court, Thanjavur, by Judgment dated 30.08.2019 in S.C.No.21 of 2018, for the offence under Section 6 read with Sections 5(u) and 5(g) of the Protection Of Children from Sexual Offences Act, 2012 and he was sentenced to undergo



W.P.(MD) No.8955 of 2024

life imprisonment and to pay a fine of Rs.5,000/- for each offence, in default, to undergo simple imprisonment for one year for each offence and in the appeal also, the conviction and sentence imposed by the Trial Court were confirmed. Her husband is in incarceration for the past four years. Therefore, she applied for grant of ordinary leave to her husband. However, the second respondent, by the impugned order, had rejected the petitioner's request citing life threat to her husband. It is also stated that the victim was also dead during rape.

3. Learned counsel for the petitioner would submit that the petitioner's husband was on bail during trial and no untoward incident had taken place during the bail period. Further, the victim side had also not supported the case of the prosecution. However, based on the scientific evidence, the Trial Court found the petitioner's husband guilty and imposed sentence on him. When no untoward incident had been reported while the petitioner's husband was on bail during trial, the order of rejection to grant leave based on the report of the jurisdiction police is without any basis and justification and thereby, he would seek for setting aside the impugned order and grant of ordinary leave.



WEB COPY

W.P.(MD) No.8955 of 2024

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that based on the report of the jurisdictional Police that there is apprehension of threat to the safety of the petitioner's husband, the petitioner's request has been rejected.

5. Heard the learned counsel on either side and perused the materials available on record.

6. On perusal of the materials available on record, we find that the offence is of the year 2018. The petitioner's husband was on bail during trial. As on date, several years have lapsed and no untoward incident had been reported even during the bail period. Further, the victim side had also not supported the prosecution version. In such circumstances, we find no justification on the part of the second respondent to reject the request of the petitioner for grant of ordinary leave to her husband based on the report of the jurisdictional police and the impugned order is liable to set aside.



WEB COPY

W.P.(MD) No.8955 of 2024

7. In the result,

- (i) The writ petition is allowed.
- (ii) The impugned order dated 21.02.2024, passed by the second respondent, is set aside.
- (iii) The convict prisoner, namely, Ilavarsan, son of Muniyappan, aged about 27 years, Convict No. 23167) shall be granted ordinary leave for a period of twenty one (21) days from 26.04.2024 to 16.05.2024 without escort.
- (iv) During the said leave period, he shall report before the Inspector of Police, Tanjore Taluk Police Station, Thanjavur, daily at 06.30 p.m., without fail.
- (v) He shall report back to the Superintendent of Prison, Central Prison, Trichy / third respondent, by 10.00 a.m., on 17.05.2024, without fail.
- (vi) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities.



WEB COPY

W.P.(MD) No.8955 of 2024

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

(viii) No costs.

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

24.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

- (i) Mark a copy of this order to the
Inspector of Police, Tanjore Taluk
Police Station, Thanjavur.
- (ii) Issue order copy today.

krk

To:

- 1.The Secretary to Government of Tamil Nadu,
Home Department,
(Prison Branch-IV),
Fort St.George, Chennai-600 009.
- 2.The Deputy Inspector General of Prison,
Trichy Range,
Trichy-620 020.
- 3.The Superintendent,
Trichy Central Prison,
Trichy-620 020.



WEB COPY



W.P.(MD) No.8955 of 2024

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

krk

W.P.(MD) No.8955 of 2024

24.04.2024.