



W.P.(MD).No.9071 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.07.2024

CORAM

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

W.P.(MD).No.9071 of 2024
and
W.M.P.(MD).No.12653 of 2024

Suriya Gandhi

.. Petitioner/ Wife of the detenu
Vs.

1.The State represented by its,
The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Trichy Range,
Trichy Central Prison,
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./2024, dated 16.02.2024, passed by the second respondent

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and quash the same and consequently direct the respondents to grant ordinary leave for 30 days without escort to Shanmugam, S/o.Peramaiyan, aged about 62 years, Life Convict No.22500, detained at Central Prison, Trichy.

For Petitioner : Mr.S.Manoharan

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 challenging the impugned order passed by the second respondent dated 16.02.2024 and consequently, direct the respondents to grant ordinary leave for 30 days without escort to Shanmugam, S/o.Peramaiyan, aged about 62 years, Life Convict No.22500, detained at Central Prison, Trichy.

2. The learned counsel appearing for the petitioner would submit that the petitioner's husband is a life convict prisoner and he is undergoing imprisonment in the third respondent prison for nearly three years. He would further submit that the petitioner has given a representation to the respondents on 05.02.2024 seeking 30 days of ordinary leave to her husband to make arrangements for the marriage of their son. However, the second respondent has rejected the request of the petitioner



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on the ground that the appeal preferred by the prisoner is pending before the Hon'ble Supreme Court. Challenging the said order, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner would further submit that though an appeal is pending before the Hon'ble Supreme Court, it will not denude the powers of the High Court to relax such Rules and grant leave to the prisoner. Further, in an earlier occasion, the prisoner had availed the emergency leave on medical grounds and returned to the prison without any problem. He would also submit that the marriage of the petitioner's son is scheduled to be held on 03.07.2024 and as a father, his presence is very much essential. Hence, he prays for grant of leave to the petitioner's husband.

4. Mr.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner's request for ordinary leave for her husband has been rejected on the ground that an appeal is pending before the Hon'ble Supreme Court and he is not entitled for ordinary leave as per Rule 2(4) of the Tamil Nadu Suspension of Sentence Rules, 1982.



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5. We find that the prisoner is not entitled for Ordinary Leave as per the Prison Rules, however, the exercise of rules/special orders making powers under Section 432(5) of the Criminal Procedure Code, will not denude the powers of the constitutional Court to relax such rules in suitable case.

6. Earlier, the prisoner was granted emergency leave on medical grounds. Now that since an appeal is pending before the Hon'ble Supreme Court, the petitioner's request for leave for her husband has been rejected by the second respondent. However, since the marriage of the petitioner's son is scheduled to be held on 03.07.2024, taking into sympathetic and humanitarian consideration, this Court is inclined to direct the second respondent to grant emergency leave to the jail inmate as it is an important ritual for his son.

7. Accordingly, this Writ Petition is disposed of with the following directions:

(i) The life convict prisoner, namely, Shanmugam (Life Convict No.22500) shall be granted emergency leave for a period of six days.

(ii) The respondents are entitled to impose necessary conditions.



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(iii) The convict prisoner shall report back to the Superintendent of Prison, Central Prison, Trichy / third respondent on expiry of the leave period.

(*) (iv) the petitioner shall appear and sign before the Melatoor Police Station, Thanjavur District daily at evening 06.30 p.m., during the leave period. The third respondent shall withdraw the escorts.

(v) 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.

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

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

Sd/-

Assistant Registrar(RTI)

**(*)Corrected as per the order of this Court dated. 02.07.2024
made in WP(MD)9071 of 2024.**

Assistant Registrar(CS-III)

// True Copy //

05/07/2024

Sub Assistant Registrar

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(*)To be substituted to the order already despatched on 02.07.2024.

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To

1.The Secretary to the Government of Tamil Nadu,
The State,
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Chennai – 600 009.

2.The Deputy Inspector General of Prison,
Trichy Range,
Trichy Central Prison,
Trichy – 620 020.

3.The Superintendent,
Trichy Central Prison,
Trichy – 620 020.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Inspector of Police,
Melatoor Police Station,
Thanjavur District.

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02.07.2024

KB(02.07.2024) 6P/ 5C

SI(05.07.2024) 6P/ 6C

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