



W.P.(MD) No.9318 of 2024

WEB COPY 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.9318 of 2024
and
W.M.P.(MD) No.8500 of 2024**

J.Rajesh

... Petitioner

-VS-

- 1.The Secretary to Government
Home Department (Prison)
Government of Tamil Nadu
Secretariat
St.George Fort
Chennai-9
- 2.The Additional Director General of Police (Prisons) /
The Inspector General of Police
Office of ADGP (Prisons) / I.G. of Prisons
Thalamuthu Natarajar Maaligai
Egmore
Chennai-8



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3.The Deputy Inspector General of Prisons
Prisons and Correctional Services Department
Trichy Range
Trichy-23

4.The Superintendent of Prison
Central Prison
Trichy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records in respect of the impugned order passed by the third respondent in No.106/MuVu/2024, dated 06.03.2024 and quash the same and consequently direct the respondents to grant 30 days emergency leave without escort to the petitioner's father, namely, Jagadheesh, son of Ganesan, a convict prisoner (convict prisoner No. 23715), now confined under Central Prison, Trichy, for the purpose of attending serious illness of his brother for a period of one month.

For Petitioner : Mr.S.Srikanth

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



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ORDER

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

The order dated 06.03.2024, passed by the third respondent, rejecting the petitioner's representation seeking to grant 30 days ordinary leave to his father / convict, is under challenge in this writ petition.

2. It is the case of the petitioner that his father was convicted by the learned Sessions Judge, Mahila Court, Salem, by judgment dated 15.09.2021 in S.C.No.131 of 2018, for the offence under Sections 341, 392 r/w 397 and 506(ii) I.P.C., and he was sentenced to undergo one month simple imprisonment for the offence under Section 341 I.P.C., and to pay a fine of Rs.1,000/-, in default to undergo one year rigorous imprisonment, to undergo ten years rigorous imprisonment for the offence under Section 392 r/w 397 I.P.C., and to undergo seven years rigorous imprisonment for the offence under Section 506(ii) I.P.C. Further, he was also convicted by the learned Sessions Judge, Mahila Court, Pudukkottai, by judgment dated 22.03.2021 in S.C.No.57 of 2019, for the offence under Sections 392 and 506(ii) I.P.C., and he was sentenced to undergo ten years rigorous



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imprisonment for the offence under Section 392 I.P.C., and to undergo two years rigorous imprisonment for the offence under Section 506(ii) I.P.C.

3. Learned counsel for the petitioner would submit that his brother had met with a road accident and he is undergoing treatment, thereby, he applied for grant of ordinary leave to his father / convict to arrange funds for medical treatment and to attend his brother. However, the third respondent, by the impugned order, had rejected the petitioner's request. Challenging the same, the present writ petition.

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that the petitioner's father had been sentenced to undergo ten years imprisonment and as on date, he has only completed two years ten months and twenty eight days. Further, he has been convicted for the offence under Sections 392 read with 397 I.P.C. As per Rule 21(b) of the Tamil Nadu Suspension of Sentence Rules, 1982, the petitioner's father is not eligible for grant of ordinary leave. Further, during enquiry, it came to light that the petitioner's brother has met with an accident. In such circumstances, the petitioner's father is eligible for grant of emergency leave.



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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 petitioner's representation had been rejected by the third respondent, on the ground that his father has not completed the requisite period of imprisonment and that as per Rule 21(b) of the Tamil Nadu Suspension of Sentence Rules, 1982, he is not entitled for grant of ordinary leave as he has been convicted for the offence under Sections 392 read with 397 I.P.C. Taking into consideration the facts and circumstances of the case, we do not find any infirmity in the impugned order passed by the third respondent. However, it is submitted by the learned Additional Public Prosecutor appearing for the respondents that on account of the fact that the petitioner's brother had met with a road accident and he is undergoing treatment, the petitioner's father is eligible for grant of emergency leave. Hence, we are inclined to direct the fourth respondent to grant three days emergency leave to the petitioner's father.



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7. Accordingly, the writ petition is disposed of with the following directions:

- (i) The fourth respondent is directed to grant three days emergency leave to the petitioner's father, namely, Jagadheesh, son of Ganesan, (Convict No.23715) from 26.04.2024 to 28.04.2024.
- (ii) During the said leave period, he shall report before the Inspector of Police, Thirumanur Police Station, Ariyalur District, daily at 06.30 p.m., without fail.
- (iii) He shall report back to the Superintendent of Prison, Central Prison, Trichy / fourth respondent, by 10.00 a.m., on 29.04.2024, without fail.
- (iv) Necessary escort shall be provided to accompany the convict prisoner.
- (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.



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

[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, Thirumanur Police Station, Ariyalur District.
- (ii) Issue order copy today.

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To:

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Home Department (Prison),
Government of Tamil Nadu,
Secretariat, St.George Fort,
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The Inspector General of Police,
Office of ADGP (Prisons) / I.G. of Prisons,
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- 3.The Deputy Inspector General of Prisons,
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Trichy Range,
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AND
K.RAJASEKAR, J.

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