



HCP(MD)No.1637 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.04.2024

CORAM

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

W.P.(MD).No.9207 of 2024
and
W.M.P.(MD).No.8381 of 2024

Kannipriya

.. Petitioner

Vs.

1.The Deputy Inspector General of Prisons,
DIG Office,
Near Central Prison,
Madurai Range,
Madurai - 625 016.

2.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District - 627 002.

.. 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.359/UTha.2/2024 dated 31.03.2024 passed by the first respondent and quash the same and consequently directing the respondent to grant ordinary leave for 28 days without escort to the



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petitioner's husband i.e., Kannan LTC No.2877 at Central Prison, Palayamkottai.

For Petitioner : Mr.A.Balaji
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 first respondent dated 31.03.2024 and consequently, to direct the respondents to grant ordinary leave for 28 days without escort to the petitioner's husband, namely, Kannan, who is a life convict prisoner confined at Central Prison, Palayamkottai.

2. The case of the petitioner is that she has applied for ordinary leave for her husband and the petitioner's husband has been granted ordinary leave, however, to go along with escort. Challenging the said order, the present Writ Petition has been filed.



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3. The learned counsel for the petitioner would submit that the petitioner had applied for ordinary leave for her husband to make arrangements and participate in the marriage of their first daughter. The first respondent, though has granted ordinary leave, has directed the petitioner's husband to go along with escort. The learned counsel would further submit that the petitioner hails from a poor background and that they are unable to afford the expenses for the escort and thereby, the present Writ Petition has been filed challenging the part of the order directing the petitioner's husband to go on ordinary leave along with escort.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that this is the first time the petitioner's husband is granted ordinary leave and as a usual procedure, he has been directed to go along with escort. Further, the learned Additional Public Prosecutor would submit that a report has been obtained from the local Police, which shows that the family members of the victim are living in the same locality and that there is a likelihood of breach of law and order. However, he would submit that the petitioner's husband has gone on emergency leave on



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25 occasions and during those times, he has gone alone and not with escort and he has also duly returned to the jail on expiry of emergency leave.

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

6. The petitioner has challenged the part of the order directing her husband to go on ordinary leave along with escort. It is the case of the petitioner that she hails from a poor family and that they are unable to afford the escort charges, whereas, it is the case of the respondents that they apprehend law and order problem from the family members of the victim. A perusal of the documents shows that the petitioner's husband was involved in the murder case registered during the year 2012 and he was convicted in the year 2013. Subsequently, the petitioner's husband has also gone on emergency leave on 25 occasions and during such time, no untoward incident had happened. In such circumstances, this Court is of the opinion that imposing a condition to go on ordinary leave along with escort is without any justification.



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7. In view of the above, this Court finds that the condition imposed by the first respondent directing the petitioner's husband to go on leave with escort is without any reason and thereby, the said condition is modified. That part of the impugned order alone is set aside and the petitioner's husband shall be granted ordinary leave without escort. However, the petitioner's husband is directed to comply with the usual conditions imposed by the jail authorities and he should also report before the Inspector of Police, Vilathikulam Police Station, Thoothukudi District daily at 6.30 PM during the period of ordinary leave. He shall duly comply with the conditions and return to the prison on expiry of the leave period.

8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(A.D.J.C.,J.) (K.R.S.,J.)
15.04.2024

NCC : Yes / No
Index : Yes / No
Lm



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To

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Near Central Prison,
Madurai Range,
Madurai - 625 016.

2. The Superintendent of Prison,
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Palayamkottai,
Tirunelveli District - 627 002.

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



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