



W.P(MD)No.9243 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM:

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

W.P(MD)No.9243 of 2024

Yokanayaki

... Petitioner

-VS-

The State represented by its,

1.The Secretary to Government of Tamil Nadu,
Home Department,
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



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to grant emergency leave for 10 days without escort to the petitioner's brother, the detenue, Jeyakanthan, S/o.Samikannu, aged about 26 years, Convict No.24153, detained at Central Prison, Trichy.

For Petitioner : Miss.K.Akshaya
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

This writ petition has been filed by the petitioner seeking emergency leave for 10 days without escort to the petitioner's brother, the detenue, Jeyakanthan, S/o.Samikannu, aged about 26 years, Convict No.24153, detained at Central Prison, Trichy.

2. The case of the petitioner is that her brother Jeyakanthan was convicted under Sections 302, 148, 341 of IPC and sentenced to undergo life



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imprisonment by the learned Sessions Judge at Karur in S.C.No.74 of 2019, dated 25.04.2022 and was also convicted under Section 120(b), 302, 449, 324 of IPC and sentenced to undergo life imprisonment by the learned Additional District and Sessions Judge, Trichy in S.C.No.232 of 2018, dated 28.02.2023. The petitioner had sent a representation on 21.11.2023 requesting the respondents to grant leave to her brother to perform the surgery for their father and also to help her for mobilizing the funds for the surgery. The second respondent has rejected the said request vide order No.106/Mu.Vu.2023, dated 05.12.2023. In the meanwhile, her father passed away on 01.04.2024 and thereafter, emergency leave was granted for one day. Her brother came out on 01.04.2024 and performed the cremation and he returned back the prison on the same day evening. Further, the petitioner had sent a representation to the respondents seeking emergency leave for her brother for 10 days for performing the death ceremonies for their father. It was originally fixed on 09.04.2024 and 10.04.2024, but on account of election, it was postponed on 22.04.2024 and 23.04.2024. Since, the respondents have not considered the said request, the petitioner has filed the present writ petition.



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3. The petitioner has sought emergency leave for her brother for conducting the death ceremonies. Even otherwise the convict is eligible for 10 days emergency leave, he has availed only one day for attending the cremation on 01.04.2024 and returned back to the prison.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner's brother is not eligible for Ordinary Leave or Emergency Leave on the following grounds (i) The convict has not completed three years of imprisonment; (ii) Appeal is pending; (iii) There is no provision for granting emergency leave for conducting the death ceremonies and prayed for dismissal of the writ petition.

5. Though as per the Rules, the petitioner's brother may not be eligible for ordinary leave, he is entitled for 10 days emergency leave. This Court, in an identical circumstances, in the case of ***Kumaresan v. State of Tamil Nadu, MANU/TN/2041/2014*** had taking into sympathetic and humanitarian consideration, ordered release of the prisoner for the purpose of attending his mother's 30th day ceremony. The petitioner though had sought for emergency



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leave for her brother to perform the surgery for their father and also to help her for mobilizing the funds for the surgery, he was not granted emergency leave and only after the death of their father, he had been granted emergency leave for one day to attend the cremation. Therefore, we are of the opinion that the petitioner may be granted 3 days emergency leave for attending the death ceremonies.

6. Taking into consideration the sympathetic and humanitarian consideration, we are inclined to issue the following directions:-

- (i) The prisoner, namely, Jeyakanthan, son of Samikannu, aged about 26 years, Convict No. 24153, detained at Central Prison, Trichy, is granted three days emergency leave, without escort, from 21.04.2024 to 23.04.2024.
- (ii) He shall surrender on 23.04.2024 before the third respondent, without fail.
- (iii) He shall utilize the leave period only for the reason for which it has been granted and



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shall not partake in any other activities.

- (iv) He shall sign before the Inspector of Police,
Kuzhithalai Police Station, Karur District,
daily at 10.30 a.m., and evening 06.30 p.m.,
during the leave period.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
am

[A.D.J.C., J.] [K.R.S., J.]
16.04.2024



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To:

- 1.The Secretary to Government of Tamil Nadu,
Home Department,
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.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Inspector of Police,
Kuzhithalai Police Station,
Karur District,



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

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