



W.P(MD)No.10160 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.04.2024

CORAM

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

W.P.(MD).No.10160 of 2024
and
W.M.P.(MD).No.9176 of 2024

Lakshmiraj

.. Petitioner

Vs.

1.The Additional Director General of Police (Prison),
Chennai.

2.The Superintendent,
Central Prison,
Madurai.

.. 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 in No.32753/Tha.Ku2/2024, dated 13.04.2024 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to release the petitioner's father Karuppaiyah Kannan, S/o.Narasingam (C.P.No.5874 - Central Prison, Madurai) on parole for five days, to the ear boring ceremony of the petitioner's daughter schedule on 26.05.2024 at his residence, Varichiyur, Madurai.



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For Petitioner : Mr.M.Jegadeesh Pandian
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 13.04.2024 and consequently, to direct the second respondent to release the petitioner's father Karuppaiah Kannan, S/o.Narasingam (C.P.No.5874 - Central Prison, Madurai) on parole for five days, to the ear boring ceremony of the petitioner's daughter schedule on 26.05.2024 at his residence, Varichiyur, Madurai.

2. The learned counsel appearing for the petitioner would submit that the petitioner's father is a life convict and he is undergoing imprisonment from 01.11.2022 in the second respondent prison. The petitioner is the only son to his father. The petitioner married one Chandralekha and that a girl child was born on 30.09.2020. As a customary practice, after the completion of three years, ear boring ceremony has to be conducted after tonsuring and



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therefore, they fixed the ceremony on 26.05.2024 at the residence of the petitioner. As a paternal grand-father and he is the only senior person available in the family, the presence of the jail inmate is necessary for the ear boring ceremony. Further, he has to made all other necessary financial and seervarisai arrangements for the function. Therefore, the petitioner had requested for Ordinary Leave for a period of 5 days. Whereas, the second respondent has rejected the said request on the ground that the petitioner's father is not eligible for Ordinary Leave. Challenging the said order, the petitioner has filed the present Writ Petition.

3. The learned Additional Public Prosecutor appearing for the respondents would submit that the convict has not completed three years period as on date and thereby, he is not eligible for Ordinary Leave. Therefore, the second respondent has rightly rejected the request of the petitioner.

4. We find that the petitioner 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



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denude the powers of the constitutional Court to relax such rules in suitable case.

5. In this case, the jail inmate is the paternal grand-father of the child. He is the only senior person available in the family. Though Rule 6 of the Suspension of Sentence Rule does not specify the ear boring ceremony as a ground for grant of emergency leave, 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 the grand-daughter.

6. Therefore, we direct the second respondent to grant emergency leave to the petitioner's father for three days without escort from 25.05.2024 to 27.05.2024. The respondents are entitled to impose necessary conditions. The convict should also report before the Inspector of Police, Karuppayurani Police Station, Madurai District daily at 10.30 AM during the period of emergency leave. He shall duly comply with the conditions and return to the prison on on 28.05.2024 at 10.30 a.m.



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7. 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.)
25.04.2024

NCC : Yes / No
Index : Yes / No
am

To

- 1.The Additional Director General of Police (Prison),
Chennai.
- 2.The Superintendent,
Central Prison,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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