



W.P.(MD) No.10794 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2024

CORAM:

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

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Kalaimegala

... 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

3.The Superintendent of Prison
Central Prison
Madurai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the third respondent to grant one month emergency leave to the petitioner's husband without escort, who are confined in Central Prison, Madurai, by name, Seeni @ Seenivasan, son of Subramaniyan (C.P.No.), aged about 34 years, a life convict for the purpose of attending ear piercing for their son for a period of thirty days i.e., from 01.05.2024 to 30.05.2024, based on the petitioner's representation dated 03.04.2024.

For Petitioner : Mr.S.Srikanth

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

ORDER

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

Prayer in this writ petition is to direct the third respondent to grant one month emergency leave from 01.05.2024 to 30.05.2024 to the petitioner's husband, namely, Seeni @ Seenivasan, son of Subramaniyan, aged about 34 years, a life convict, confined in Central Prison, Madurai, without escort, for the purpose of attending ear piercing function of their son, based on the petitioner's representation dated 03.04.2024.



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2. Learned counsel for the petitioner would submit that the petitioner's husband is a life convict and he is undergoing imprisonment from 08.12.2022 in the third respondent prison. They have scheduled ear piercing ceremony for their second son, namely, Munubkisan, on 06.05.2024 at Arulmigu Sri Marutharudaiya Ayyanar Temple, Ulaiyur. Therefore, the presence of the petitioner's husband / convict is very much essential to make necessary arrangements for the said ceremony. Hence, the petitioner had sent a representation dated 03.04.2024 to the respondents seeking emergency leave for a period of one month to her husband. Since the respondents have not passed any orders based on the said representation, the petitioner has filed this writ petition.

3. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, who takes notice for the respondents, on instructions, submitted that the request of the petitioner has been rejected by the third respondent, *vide* proceedings dated 30.04.2024, on the ground that the appeal filed by the petitioner's husband challenging the conviction and sentence imposed on him by the Trial Court is pending before this Court, thereby, under Rule 2(4) of the Tamil Nadu Suspension of Sentence Rules, 1982, he is not eligible for grant of



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leave and to that effect, he has also produced a copy of the proceedings of the third respondent dated 30.04.2024, before this Court. He would further submit that though the convict is entitled for grant of emergency leave, as per Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, the reason for which, the leave is sought for can also not be granted.

4. We find that the petitioner's husband is not entitled for grant of 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.

5. In this case, ear piercing ceremony is scheduled to be conducted for the jail inmate's son. As a father, his presence is very much essential for the said ceremony. Though Rule 6 of the Tamil Nadu Suspension of Sentence Rules, 1982, does not specify the ear piercing ceremony as a ground for grant of emergency leave, taking into sympathetic and humanitarian consideration, this Court is inclined to direct the third respondent to grant emergency leave to the jail inmate as it is an important ritual for his son.



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6. Therefore, we are inclined to dispose of the writ petition with the following directions:

- (i) The convict prisoner, namely, Seeni @ Seenivasan (C.P.No.6260) shall be granted emergency leave for a period of three (3) days from 05.05.2024 to 07.05.2024.
- (ii) The respondents are entitled to impose necessary conditions.
- (iii) During the said leave period, the convict prisoner shall report before the Inspector of Police, Kenikkarai Police Station, Ramanathapuram District, daily at 10.30 a.m., without fail.
- (iv) The convict prisoner shall report back to the Superintendent of Prison, Central Prison, Madurai / third respondent, by 10.30 a.m. on 08.05.2024, without fail.
- (v) Necessary escort shall be provided to accompany the convict prisoner.



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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.

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

(viii) No costs.

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

30.04.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

Mark a copy of this order to the Inspector of Police, Kenikkarai Police Station, Ramanathapuram District.

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To:

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- 2.The Additional Director
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The Inspector General of Police,
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AND
K.RAJASEKAR, J.

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