



W.P.(MD) No.11506 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM:

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

W.P.(MD) No.11506 of 2024

Palaniammal

... Petitioner

-VS-

1.The Secretary to the Government of Tamil Nadu
Department of Home
Fort St.George
Chennai-600 009

2.The Additional Director General of Police (Prisons)
Gandhi Irwin Road
Egmore
Chennai

3.The Superintendent of Prison
Madurai 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 ten days emergency leave to the petitioner's husband, namely, Dharma @ Ananthan @ Saravanan, aged about 36 years, convicted prisoner without escort, now confined at Central Prison, Madurai, for the purpose of attending ear piercing for their son scheduled on 06.06.2024, based on the petitioner's representation dated 22.05.2024.

For Petitioner : Mr.R.Pon Karthikeyan

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 ten days emergency leave to the petitioner's husband, namely, Dharma @ Ananthan @ Saravanan, aged about 36 years, a convict, confined in Central Prison, Madurai, without escort, for the purpose of attending ear piercing function of their son scheduled to be held on 06.06.2024, based on the petitioner's representation dated 22.05.2024.



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2. Learned counsel for the petitioner would submit that the petitioner's husband is a convict and he is undergoing imprisonment from 27.02.2023 in the third respondent prison. They have scheduled ear piercing ceremony for their elder son, namely, Mathan, on 06.06.2024 at Sri Nallathangal Temple, Valayavayal. 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 22.05.2024 to the respondents seeking emergency leave for a period of ten days 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 31.05.2024, 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, thereby, under Rule 2(4) of the Tamil Nadu Suspension of Sentence Rules, 1982, he is not eligible for grant of leave and to that effect, he has also produced a copy of the proceedings of the third



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respondent dated 31.05.2024, 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, Dharma @ Ananthan @ Saravanan (C.P.No.1740) shall be granted emergency leave for a period of two (2) days from 05.06.2024 and 06.06.2024.
- (ii) The respondents are entitled to impose necessary conditions.
- (iii) The convict prisoner shall report back to the Superintendent of Prison, Central Prison, Madurai / third respondent, by 10.30 a.m. on 07.06.2024, 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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During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.

(vii) No costs.

[A.D.J.C., J.]

[K.R.S., J.]

03.06.2024

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

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To:

- 1.The Secretary to the Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai-600 009.
- 2.The Additional Director General of Police (Prisons),
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