



W.P.(MD) No.12266 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM:

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

W.P.(MD) No.12266 of 2024

Palanisamy

... Petitioner

-vs-

- 1.The Superintendent
Madurai Central Prison
Madurai
- 2.The Inspector of Police
Thadikombu Police Station
Dindigul District

... 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 passed by the first respondent vide office proceedings in No.E-69089/ThaKu.2/2024, dated 23.05.2024 and quash the same as illegal and consequently direct the first respondent to grant emergency leave or



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ordinary leave to the petitioner's son, namely, Jothi Murugan (Convicted Prisoner No.2193), by considering the petitioner's representation dated 20.04.2024.

For Petitioner : Mr.R.Karunanidhi

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 quash the order dated 23.05.2024, passed by the first respondent, rejecting the petitioner's representation dated 20.04.2024 seeking grant of emergency leave for his son Jothi Murugan (C.P.No.2193).

2. The case of the petitioner is that his son Jothi Murugan is a convict and he is in incarceration pursuant to the Judgment dated 02.01.2024, passed in Spl.S.C.No.108 of 2023, by the Sessions Court, POCSO Act Cases, Dindigul. The appeal preferred the convict against the conviction and sentence imposed on him is pending before this Court in CrI.A.(MD) No. 150 of 2024.



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3. It is the further case of the petitioner that his wife (convict's mother) was admitted in a hospital and operation was conducted, in which, a stent was placed in her heart. Since she is facing breathing problem and not able to visit the prison to meet her son (convict) and further in order to admit his granddaughter (convict's daughter) in a different school, the petitioner made a representation, dated 20.04.2024, to the respondents seeking grant of 15 days emergency leave to the convict. However, the same has been rejected by the impugned order of the first respondent, on the grounds that the appeal filed by the petitioner's son 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 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. Therefore, the present writ petition.

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the appeal preferred by the convict challenging the conviction and sentence imposed on him by the Trial Court is pending before this Court in CrI.A.(MD) No.150 of 2024. The convict



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was in remand for 634 days before conviction and he has not yet completed one year of imprisonment after the conviction.

5. Taking into consideration the facts that the petitioner's wife (convict's mother) has undergone operation and she is taking treatment and the petitioner is aged about 69 yeats and he needs assistance of his son (convict) to mobilize funds for his wife's medical treatment and also to get admission for his granddaughter (convict's daughter) in School, we are inclined to direct the first respondent to grant six days emergency leave to the petitioner's son.

6. Accordingly, the writ petition is disposed of with the following directions:

- (i) The first respondent is directed to grant six days emergency leave to the petitioner's son, namely, Jothi Murugan, (Convict No.2193) from 15.06.2024 to 20.06.2024.
- (ii) He shall report back to the Superintendent of Prison, Central Prison, Madurai / first respondent, by 10.00 a.m., on 21.06.2024, without fail.



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- (iii) Necessary escort shall be provided to accompany the convict prisoner.
- (iv) 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.
- (v) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities,
- (vi) 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.]

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

Note to Office:
Issue order copy today.

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To:

- 1.The Superintendent,
Madurai Central Prison,
Madurai.
- 2.The Inspector of Police,
Thadikombu Police Station,
Dindigul District.



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AND
K.RAJASEKAR, J.

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