



W.P.(MD) No.12386 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.12386 of 2024
and
W.M.P.(MD) No.10969 of 2024**

Praveen

... Petitioner

-VS-

1.The State of Tamilnadu
rep.by the Secretary to Government
Home (Prison-IV) Department
Secretariat
Fort St.George
Chennai-600 009

2.The Additional Director
General of Police (Prisons)
Inspector General of Prisons
CMDA Tower-II
No.1, Gandhi Irwin Road
Egmore
Chennai-600 008



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3.The Deputy Inspector
General of Prisons and
Correctional Services
Madurai Range
Madurai Central Prison Campus
Madurai-625 016

4.The Superintendent of Prison
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 passed by the third respondent in order No.RO-MDU/48/2024-G2, dated 23.05.2024 and quash the same and consequently direct the third respondent to grant ordinary leave of 30 days to the petitioner's brother by name Arogya Prabhu, son of Panner Selvam, aged about 40 years, who is confined at Central Prison, Madurai, without Police escort to the petitioner's brother.

For Petitioner : Mr.P.Karthick

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



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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 third respondent, rejecting the petitioner's representation dated 16.04.2024 seeking grant of ordinary leave for his brother Arogya Prabhu (C.P.No.5848).

2. The case of the petitioner is that his brother Arogya Prabhu is a convict and he is in incarceration pursuant to the Judgment dated 21.03.2019, passed in CrI.A.(MD) No.274 of 2011, by this Court. The appeal preferred by the convict against the conviction and sentence imposed on him is pending before the Honourable Supreme Court in C.A.No.1423-1424 of 2019.

3. It is the further case of the petitioner that his mother is aged 73 years, she is suffering from various health ailments and she is in very serious condition. He needs assistance of his brother (convict) for providing better medical treatment to their mother. Hence, he made a representation, dated 16.04.2024, to the respondents seeking grant of 30 days ordinary leave to his



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brother (convict). However, the same has been rejected by the impugned order of the third respondent, on the ground that the appeal filed by the petitioner's brother challenging the conviction and sentence imposed on him by the Appellate Court is pending before the Honourable Supreme Court, thereby, under Rule 2(4) of the Tamil Nadu Suspension of Sentence Rules, 1982 and other cases are also pending against him, thereby under Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982, he is not eligible for grant of leave. 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 Appellate Court is pending before the Honourable Supreme Court and as on date he has completed five years of imprisonment.

5. Taking into consideration the facts that the petitioner's mother is aged about 73 years and suffering from various health ailments and it is stated that she is in serious condition, we are inclined to direct the respondents 3 and 4 to grant six days emergency leave to the petitioner's brother.



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

- (i) The respondents 3 and 4 are directed to grant six days emergency leave to the petitioner's brother, namely, Arogya Prabhu, (Convict No.5848) from 15.06.2024 to 20.06.2024.
- (ii) He shall report back to the Superintendent of Prison, Central Prison, Madurai / fourth respondent, by 10.00 a.m., on 21.06.2024, without fail.
- (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,



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

(vii) No costs. Consequently, connected miscellaneous petition is closed.

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

[K.R.S., J.]

12.06.2024

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

Note to Office:

Issue order copy today.

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To:

1.The Secretary to Government,
Home (Prison-IV) Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2.The Additional Director,
General of Police (Prisons)
Inspector General of Prisons,
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