



W.P(MD)No.12759 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM:

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

**W.P(MD)No.12759 of 2024
and
W.M.P(MD)No.11355 of 2024**

Chellammal

... 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 Nagarajar Maaligai,
Egmore,
Chennai-8.
- 3.The Deputy Inspector General of Prisons,
Prisons and Correctional Services Department,



W.P(MD)No.12759 of 2024

Trichy Range,
Trichy-23.

4.The Superintendent of Prison,
Central Prison,
Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records in respect of impugned order passed by the third respondent in No.106/௮௨/2024 dated 10.05.2024 and quash the same and consequently direct the respondents to grant one month emergency leave without escort to her son namely Maheshwaran, S/o.Kannusamy @ Kandhasamy a convict prisoner (C.P.No.21477) now confined under Central Prison, Trichy for the purpose of attending serious illness of petitioner's daughter for the period of one month.

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.]

The present Writ Petition is filed challenging the impugned order passed by the third respondent, dated 10.05.2024 and quash the same and



W.P(MD)No.12759 of 2024

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consequently, to direct the respondents to grant one month emergency leave without escort to her son namely Maheshwaran, S/o.Kannusamy @ Kandhasamy a convict prisoner (C.P.No.21477) now confined under Central Prison, Trichy.

2. The case of the petitioner is that the petitioner's son was convicted and sentenced for the offence under Sections 376(1) and 506(i) IPC and sentenced to undergo 10 years Rigorous Imprisonment and fine of Rs.1,00,000/- in default to undergo 1 year simple imprisonment under Section 376(1) IPC and to under 6 months simple imprisonment for an offence under Section 506(i) IPC. Thereafter, an appeal was preferred and the sentences were reduced to 7 years. Against the said modification, the convict has preferred an appeal before the Hon'ble Supreme Court and the same was dismissed.

3. The learned counsel appearing for the petitioner would submit that the petitioner has a daughter namely Sasikala, who is the elder sister of Maheshwaran and she is undergoing treatment for schizophrenia from 14.09.2013. As a responsible brother, her son Maheshwaran has to be with her to take care of her and to give her all medical assistance and as a responsible male



W.P(MD)No.12759 of 2024

WEB COPY

member of the family he has to mobilize funds for her further treatment.

Therefore, the petitioner seeks emergency leave for 30 days for her son. The said request was rejected by the third respondent on 10.05.2024. Challenging the said rejection order, the petitioner has filed the present writ petition.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the request of the petitioner has been rejected on the ground that the prisoner has not completed 2 years after conviction and thereby, he is not eligible for Ordinary Leave. Further, the period of emergency leave can be granted for 15 days per year, that too, not at a one stretch and it can be granted on spells of 3 days + 3 days + 3 days + 6 days, totally, 15 days, whereas, the petitioner has sought for 30 days emergency leave it cannot be considered.

5. Though the petitioner is not eligible for ordinary leave, he is eligible only for emergency leave.

6. Taking into consideration the request of the petitioner and also



W.P(MD)No.12759 of 2024

taking into sympathetic and humanitarian consideration, this Court is inclined to direct the third respondent to grant emergency leave for 6 days to the jail inmates with escort.

7. In the result,

(i) The writ petition is allowed.

(ii) The impugned order dated 10.05.2024, passed by the third respondent, is set aside.

(iii) The convict prisoner, namely, Maheshwaran, S/o.Kannusamy @ Kandhasamy a convict prisoner (C.P.No.21477) now confined under Central Prison, Trichy shall be granted emergency leave for a period of six (6) days.

(iv) He shall report back to the Superintendent of Prison, Central Prison, Trichy on completion of leave period.

(v) Necessary escort shall be provided to accompany the convict prisoners.

(vi) The escort charges shall be borne by the



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W.P(MD)No.12759 of 2024

petitioner and if necessary, the same shall be adjusted from the income earned by the convict prisoner during the imprisonment period.

(vii) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities.

(viii) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the jail manual.

(ix) No costs.

[A.D.J.C., J.] [K.R.S., J.]
19.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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W.P(MD)No.12759 of 2024

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W.P(MD)No.12759 of 2024

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