



W.P.(MD).No.12895 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 21.06.2024

CORAM

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

W.P.(MD).No.12895 of 2024

Easwaran

.. Petitioner

Vs.

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

2.The Director General of Prisons,
O/o.Tamil Nadu Prisons Headquarters,
Whannels Road,
Egmore,
Chennai - 600 008.

3.The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy - 620 023.

4.The Superintendent of Prisons,
Central Prison,
Trichy - 620 020.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Certiorarified Mandamus, calling for the records relating to



W.P.(MD).No.12895 of 2024

the impugned order passed by the 3rd respondent vide her proceedings in No.106/MuVu/2024 dated 02.05.2024 and quash the same as illegal and void, consequently direct the 3rd respondent to grant 21 days ordinary leave without police escort to petitioner's son namely Sivakumar, S/o.Easwaran, Convict No.23279, confined Central Prison, Tiruchirappalli, forthwith by considering petitioner's representation dated 27.03.2024.

For Petitioner : Mr.C.Karthikeyan

For Respondents : Mr.A.Thiruvadikumar
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 02.05.2024 and consequently, direct the third respondent to grant 21 days ordinary leave without police escort to the petitioner's son, namely, Sivakumar, S/o.Easwaran, Convict No.23279, who is confined at Central Prison, Tiruchirappalli, forthwith by considering the petitioner's representation dated 27.03.2024.

2. The learned counsel appearing for the petitioner would submit that the petitioner's son is a life convict and he is undergoing imprisonment for



W.P.(MD).No.12895 of 2024

more than 29 months in the fourth respondent prison. He would further submit that the petitioner's daughter-in-law, who is the wife of the convict, has undergone two surgeries within a year, her health condition is critical and that appropriate arrangements have to be made for further treatment. Since the petitioner and his wife are senior citizens, they are unable to take care of her and they are not in a position to arrange sufficient money for her further treatment. Therefore, the presence of the petitioner's son / convict is very much essential to make necessary arrangements for the treatment. Hence, the petitioner had sent a representation dated 27.03.2024 to the respondents seeking 21 days ordinary leave to his son. However, the third respondent has rejected the request of the petitioner on the ground that the convict is not eligible for ordinary leave as he has not completed three years of imprisonment as per Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982. Challenging the said order, the petitioner has filed the present Writ Petition.

3. The learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the representation of the petitioner was rejected on the ground that the convict has not completed



W.P.(MD).No.12895 of 2024

three years of imprisonment. He further submitted that the reasons mentioned by the petitioner seeking leave is that the prisoner's wife is sick and the same has been verified through the Probation Officer and it is found that the reason is true. He also submitted that the prisoner has completed 2 years 5 months and 2 days and he is eligible for only 6 days emergency leave.

4. We find that the petitioner is not entitled for 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 the present case, the prison inmate's wife is sick and his presence is very much essential to make arrangements for her treatment. Hence, taking into sympathetic and humanitarian consideration, this Court is inclined to direct the third respondent to grant emergency leave to the jail inmate to make arrangements for the treatment of his wife.



W.P.(MD).No.12895 of 2024

6. Accordingly, this Writ Petition is disposed of with the following directions:

(i) The life convict prisoner, namely, Mr.Sivakumar (Convict No. 23279) shall be granted emergency leave for a period of six days.

(ii) The respondents are entitled to impose necessary conditions.

(iii) The prisoner shall report back to the Superintendent of Prison, Central Prison, Trichy / fourth respondent, on completion of the leave period.

(iv) Necessary escort shall be provided to accompany the 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 prisoner during the imprisonment period.

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

(vii) No costs.

(A.D.J.C.,J.) (K.R.S.,J.)
21.06.2024

NCC : Yes / No
Index : Yes / No
Lm



W.P.(MD).No.12895 of 2024

To

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

2. The Director General of Prisons,
O/o. Tamil Nadu Prisons Headquarters,
Whannels Road,
Egmore,
Chennai - 600 008.

3. The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy - 620 023.

4. The Superintendent of Prisons,
Central Prison,
Trichy - 620 020.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.P.(MD).No.12895 of 2024

A.D.JAGADISH CHANDIRA,J.
and
K.RAJASEKAR,J.

Lm

W.P.(MD).No.12895 of 2024

21.06.2024