



W.P(MD)No.12881 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM:

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

W.P(MD)No.12881 of 2024

Nattardevi

... Petitioner

-VS-

1.The State of Tamil Nadu,
rep. by Additional Chief Secretary to Government,
Home (Prison-IV) Department,
Fort St. George,
Chennai-600 009.

2.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli-627 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents to release the petitioner's brothers namely (1) Patchaiparumal @ Patchaikutti (C.No.4872), S/o.Gunasekarapandian and (2) Palavesaraj @ Palavesamuthu (C.No.4874) S/o.Gunasekarapandian, on



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Parole with an escort, who are presently confined at Central Prison, Palayamkottai, for the period of 5 days to attend their mother Tmt.Vasagam Ammal's 48th day of funeral and ritual service.

For Petitioner : Mr.B.Anandan

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 for a writ of mandamus directing the respondents to release the petitioner's brothers namely (1) Patchaiparumal @ Patchaikutti (C.No.4872), S/o.Gunasekarapandian and (2) Palavesaraj @ Palavesamuthu (C.No.4874) S/o.Gunasekarapandian, on Parole with an escort, who are presently confined at Central Prison, Palayamkottai, for the period of 5 days to attend their mother Tmt.Vasagam Ammal's 48th day of funeral and ritual service.



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2. The learned counsel appearing for the petitioner would submit that the petitioner's brothers were falsely implicated in a murder case as A2 and A3 in Cr.No.1818 of 2007 on the file of the Eral Police Station, Thoothukudi District. The learned Additional Sessions Judge, Fast Track Court No.I, Thoothukudi acquitted them in S.C.No.19 of 2019 on 01.09.2009. Against which, one Thilagavathi/P.W.8 preferred an criminal appeal before this Court in CrI.A(MD)No.274 of 2018 and the conviction order was passed by this Court on 07.12.2021.

3. He further submitted that their mother Tmt.Vasagam Ammal died on 08.05.2024 and her brothers were released on parole on 09.05.2024 for attending the funeral. In the meantime, the petitioner has sent a representation on 30.05.2024 to the respondents seeking emergency leave for her brothers for attending her mother's 48th day funeral death function. Since the respondents have not taken any action on the representation of the petitioner, the present writ petition has been filed.



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4. The learned Additional Public Prosecutor appearing for the respondents would submit that SLP is pending before the Hon'ble Apex Court and hence, the jail inmates are not eligible for emergency leave, therefore, her request has been rejected by the second respondent.

5. Though it is stated that the pendency of appeal is the ground for not granting leave, it will not denude the power of this Court to grant emergency leave.

6. Taking into consideration the request of the petitioner and also taking into sympathetic and humanitarian consideration, this Court is inclined to direct the second respondent to grant emergency leave for one day to the jail inmates with escort.

7. In the result,

(i) The writ petition is disposed of.

(ii) The convict prisoners, namely, (1) Patchaiparumal @ Patchaikutti (C.No.4872), S/o.Gunasekarapandian and (2) Palavesaraj @



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Palavesamuthu (C.No.4874) S/o.Gunasekarapandian, shall be granted emergency leave for one day (1) day on 24.06.2024 with escort.

(iii) He shall report back to the Superintendent of Prison, Central Prison, Palayamkottai/second respondent by 10.00 a.m., on 25.06.2024.

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

(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 prisoners during the imprisonment period.

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

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

(viii) No costs.

[A.D.J.C., J.] [K.R.S., J.]
18.06.2024

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

- 1.The Additional Chief Secretary to Government,
Home (Prison-IV) Department,
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