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W.P.(MD) No.12957 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2024

CORAM:

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

W.P.(MD) No.12957 of 2024

and

W.M.P.(MD) No.11501 of 2024

Saroja

... Petitioner

-VS-

- 1.The Secretary to Government
Home Department (Prison)
Government of Tamil Nadu
Secretariat, St.Geroge 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 Natarajar Maaligai
Egmore, Chennai-8
- 3.The Superintendent of Prison
Central Prison, Palayamkottai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue
a writ of certiorarified mandamus calling for the records of the impugned order



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passed by the third respondent in No.467/ThaKu.2/2024, dated 10.06.2024 and quash the same and consequently, directing the respondents to grant 20 days emergency leave without escort to the petitioner's son by name Sureshkumar @ Suresh @ Vazhakai Suresh Kumar, son of Thangaraj, aged about 45 years, a life convict, now confined at Central Prison, Palayamkottai, for the purpose of attending serious illness of the petitioner's husband, by considering the petitioner's representation, dated 18.03.2024.

For Petitioner : Mr.S.Srikanth
for M/s.APN Law Associates

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 10.06.2024, passed by the third respondent, rejecting the petitioner's representation dated 18.03.2024 seeking grant of emergency leave for her son, namely, Sureshkumar @ Suresh @ Vazhakai Suresh Kumar, a life convict and to grant him 20 days emergency leave without escort.

2. The case of the petitioner is that her son Sureshkumar @ Suresh @ Vazhakai Suresh Kumar is a life convict and he is in incarceration



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pursuant to the Judgment dated 15.12.2022, passed in S.C.No.136 of 2018, by the learned Additional District Sessions Judge, Fast Track Court, Kanyakumari District @ Nagercoil.. The appeal preferred by the convict against the conviction and sentence imposed on him is pending before this Court in CrI.A.(MD) No.174 of 2023.

3. It is the further case of the petitioner that she is aged 61 years and her husband is suffering from kidney related disease and also amnesia and he is taking treatment for the same and he is rapidly getting deteriorated and therefore, she needs the presence of her son / convict. Hence, she made a representation, dated 18.03.2024, to the respondents seeking grant of 20 days emergency leave to her son / 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 son challenging the conviction and sentence imposed on him by the Trial Court is pending before this Court, thereby, under Rule 2(4) of the Tamil Nadu Suspension of Sentence Rules, 1982, he is not eligible for grant of any 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 Trial



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Court is pending before this Court and as on 10.06.2024, he has completed one year eight months and eight days of imprisonment and sofar he has not availed any leave.

5. Taking into consideration the facts that the petitioner is aged 61 years and her husband is suffering from various health ailments and the convict has not availed any leave sofar, we are inclined to direct the third 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 third respondent is directed to grant six days emergency leave to the petitioner's son, namely, Sureshkumar @ Suresh @ Vazhakai Suresh Kumar from 01.07.2024 to 06.07.2024.
- (ii) He shall report back to the Superintendent of Prison, Central Prison, Palayamkottai / third respondent, by 10.00 a.m., on 07.07.2024, without fail.
- (iii) Necessary escort shall be provided to accompany the convict prisoner.



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- (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. Consequently, connected miscellaneous petition is closed.

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

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Secretary to Government,
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Government of Tamil Nadu,
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Chennai-9.
- 2.The Additional Director
General of Police (Prisons),
The Inspector General of Police,
Office of ADGP (Prisons) / I.G. of Prisons,
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