



W.P(MD)No.13346 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2024

CORAM:

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

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Tmt.Alai Arasi @ Subha

... Petitioner

-VS-

1.The Additional Director General of Police (Prison),
Chennai.

2.The Superintendent,
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 in No.I/23267/2024, dated 31.05.2024 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to release the petitioner's husband Vijayapandian, S/o.Sakkarai (C.P.No.5860-Central Prison, Madurai) on Ordinary Leave / Emergency Leave for 15 days towards arranging school fees and other essential expenditure for her family and to maintain her age old father.



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For Petitioner : Mr.M.Jegadeesh Pandian
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 second respondent, dated 31.05.2024 and quash the same and consequently, direct the second respondent to release the petitioner's husband Vijayapandian, S/o.Sakkarai (C.P.No.5860-Central Prison, Madurai) on Ordinary Leave / Emergency Leave for 15 days.

2. The case of the petitioner is that her husband was convicted for the offence under Section 302 r/w 149 IPC and sentenced to undergo life imprisonment. Her husband had surrendered before the trial Court on 11.04.2019 from that onwards he is under judicial custody. Till 2019, her husband alone maintained her family, thereafter, as a single parent, she developed her kids and in order to pay the school fees and maintain the family, she pledged her jewels in various banks and using the money she is maintaining the family. At present for



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the past 2 years, her husband was not provided with any kind of leave and her elder daughter had completed 10th standard and enter in 11th standard. Similarly other three children are studying VII, VI and V Standard respectively. In order to pay the school fees for all the children, she is struggling very hard and hence, the presence of the convict is very much necessary. Therefore, the petitioner has made a representation on 25.05.2024 seeking ordinary leave of 10 days. The said request was rejected by the second respondent on 31.05.2024. Challenging the said rejection order, the petitioner has filed the present writ petition.

3. The learned Additional Public Prosecutor appearing for the respondents would submit that the request of the petitioner was rejected by the second respondent on the ground that the appeal is pending before the Hon'ble Supreme Court and he has also having pending case before the IVth Additional District Court, Madurai and the next hearing date is 18.07.2024.

4. 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.



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5. 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 Ordinary leave for 10 days to the jail inmates with escort.

6. In the result,

(i) The writ petition is allowed.

(ii) The impugned order dated 31.05.2024, passed by the second respondent, is set aside.

(iii) The convict prisoner, namely, Vijayapandian, S/o.Sakkarai (C.P.No.5860) now confined under Central Prison, Madurai shall be granted ordinary leave for a period of ten (10) days.

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



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(v) Single escort shall be provided to accompany the convict prisoner.

(vi) 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.

(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.]
27.06.2024

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

- 1.The Additional Director General of Police (Prison),
Chennai.
- 2.The Superintendent,
Central Prison,
Madurai.



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

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