



W.P.(MD) No.13906 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2024

CORAM:

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

W.P.(MD) No.13906 of 2024

Kalaiselvi

... Petitioner

-vs-

1.The Director General of Prison
Directorate of the Central Prison
Tamil Nadu Prison
Veannels Road
Egmore
Chennai-600 008

2.The Deputy Inspector General of Prisons
Madurai Range
Madurai Central Prison Campus
Madurai City-625 016

3.The Superintendent of Prison
Madurai Central Prison
Madurai City-625 016

... Respondents



W.P.(MD) No.13906 of 2024

WEB C PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the third respondent vide his proceedings in No.I/23260/2024, dated 31.05.2024 and quash the same as illegal and consequently direct the third respondent to grant leave to the petitioner's brother Kali Tamilvanan @ Tamil @ Kalai, son of Periyasamy, a convict prisoner in C.P.No.6294, confined at the Central Prison, Madurai, forthwith, without escort.

For Petitioner : Mr.J.Vijayaraja

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 31.05.2024, passed by the third respondent, rejecting the petitioner's representation dated 14.05.2024 seeking grant of emergency for her brother, namely, Kali Tamilvanan @ Tamil @ Kalai (C.P.No.6294).



WEB COPY

W.P.(MD) No.13906 of 2024

2. The case of the petitioner is that her brother Kali Tamilvanan @ Tamil @ Kalai is a convict and he is in incarceration pursuant to the Judgment dated 12.12.2017, passed in Spl.C.C.No.19/2016, by the learned Principal District Judge, Thiruppur. The appeal preferred by the convict against the conviction and sentence imposed on him was dismissed by this Court in Crl.A.(MD) No.163 of 2018, vide Judgment dated 22.06.2020 and the appeal preferred by the convict before the Apex Court is pending.

3. It is the further case of the petitioner that her mother is a senior citizen and she is suffering from various health ailments. She needs assistance of her brother (convict) for providing better medical treatment to their mother. Hence, she made a representation, dated 14.05.2024, to the respondents seeking grant of fifteen days emergency to her brother (convict). However, the same has been rejected by the impugned order of the third respondent, citing the pendency of the appeal preferred by the convict before the Honourable Supreme Court challenging the conviction and sentence imposed on him by the Trial Court and confirmed by this Court. She would further submit that her brother is in incarceration for more than eight years and so far, he has not availed any leave. She also undertakes that during the



W.P.(MD) No.13906 of 2024

leave period, the convict will not indulge in any other activities other than the purpose for which the leave is sought for and he will not give any interview to any media including social media. She would further submit that this Court, by order dated 25.04.2024 in W.P.(MD) No.8752 of 2024 has granted ten days ordinary leave to the co-accused, namely, Selvakumar (C.P.No.6029) with escort.

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the the petitioner's brother is involved in a case of honour killing and that the Probation Officer had, after enquiry, found that the release of the petitioner's brother would result in law and order problem in that area and thereby, the third respondent has rejected the case of the petitioner. He would further submit that the appeal preferred by the convict challenging the conviction and sentence imposed on him by the Trial Court and confirmed by this Court, is pending before the Honourable Supreme Court and as on date he has completed more than eight years of imprisonment and sofar he has not availed any leave.



W.P.(MD) No.13906 of 2024

WEB COPY

5. Heard the learned counsel on both sides and perused the materials available on record.

6. We find that the petitioner's brother, who is a life convict, is in jail for more than eight years and as per the Rules, he is eligible for ordinary leave, whereas, the third respondent, citing the pendency of the appeal preferred by the convict against the conviction and sentence imposed on him by the Trial Court and confirmed by this Court, has rejected the petitioner's representation. Further, this Court, by order dated 25.04.2024 in W.P.(MD) No.8752 of 2024, has granted ten days ordinary leave to the co-accused, namely, Selvakumar (C.P.No.6029) with escort. Therefore, taking into consideration the facts and circumstances of the case and the reason for which the petitioner sought for leave for her brother / convict, we are inclined to direct the respondents to grant ten days ordinary leave to the petitioner's brother.

7. Accordingly, the writ petition is disposed of with the following directions:



WEB COPY



W.P.(MD) No.13906 of 2024

- (i) The respondents are directed to grant ten days ordinary leave to the petitioner's brother, namely, Kali Tamilvanan @ Tamil @ Kalai (C.P.No.6294).
- (ii) He shall report back to the Superintendent of Prison, Central Prison, Madurai / third respondent, by 10.00 a.m., on completion of the leave period.
- (iii) Necessary escort shall be provided to accompany the convict prisoner.
- (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 and as per the undertaking that he shall not indulge in any other activities other than the purpose



WEB COPY

W.P.(MD) No.13906 of 2024

for which the leave is sought for and he shall not give interview in any media including social media.

(vii) No costs.

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

18.07.2024

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

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To:

- 1.The Director General of Prison,
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Tamil Nadu Prison,
Veannels Road, Egmore,
Chennai-600 008.
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WEB COPY



W.P.(MD) No.13906 of 2024

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

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W.P.(MD) No.13906 of 2024

18.07.2024