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W.P.(MD) No.16938 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2024

CORAM:

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

W.P.(MD) No.16938 of 2024

Srinivasan

... Petitioner

-vs-

1.The Deputy Inspector General of Prison
O/o.The Deputy Inspector General of Prison
and Correctional Services
Madurai Range
Madurai Central Prison Campus
New Jail Road, Madurai

2.The Superintendent of Prison
Madurai Central Jail
New Jail Road
Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 and 2 to extend the ordinary leave to the petitioner from 23.07.2024 to 12.08.2024 for further 20 days by considering his representation dated 19.07.2024.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



W.P.(MD) No.16938 of 2024

ORDER

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Prayer in this writ petition is to direct the respondents to extend the ordinary leave already granted to the petitioner for further twenty days from 23.07.2024 to 12.08.2024, by considering his representation dated 19.07.2024.

2. The case of the petitioner is that he is a convict and he is in incarceration pursuant to the Judgment dated 12.08.2020, passed in S.C.No. 18 of 2016, by the learned Additional District and Sessions Judge, Fast Track Court, Theni. The appeal preferred by him against the conviction and sentence imposed on him before this Court has been dismissed. He is in incarceration for the past four years. Earlier, he was granted two days emergency leave with effect from 23.12.2023 to 24.12.2023 to visit his ailing mother and he duly surrendered before the second respondent on 24.12.2023 and during such time, no untoward incident had taken place.

3. It is the further case of the petitioner that his father is a senior citizen and he is suffering from lungs disorder, chest pain and other health ailments. Earlier, his father was taken care of by his sister and physically challenged brother. However, since his sister had met with an accident and



W.P.(MD) No.16938 of 2024

got injured, she could not take care of his father. In such circumstances, his father made a representation, dated 12.04.2024, to the respondents seeking grant of 30 days ordinary leave to him for taking medical treatment. However, the same was rejected by the order of the first respondent, on the ground that that the Inspector of Police, Allinagaram Police Station, had not recommended the case of the petitioner's father as the presence of the convict prisoner is not required. Therefore, his father filed a writ petition before this Court in W.P. (MD) No.14455 of 2024 and this Court, by order dated 02.07.2024, granted fifteen days ordinary leave him from 08.07.2024 to 22.07.2024, without escort. Since his father is under medical treatment and he has to take his father to Madurai for further treatment, his presence is very much essential and thereby, he submitted a representation, dated 19.07.2024, to the respondents seeking extension of leave period for further twenty days. However, the respondents has not passed any orders on the petitioner's representation. Hence, this writ petition.

4. Learned Additional Public Prosecutor appearing for the respondents, on instructions, submitted that the petitioner has already availed fifteen days ordinary leave and that as per Rule 22(3) of the Tamil Nadu Suspension of Sentence Rules, 1982, the prisoner shall be granted the second or subsequent spell of ordinary leave not exceeding the period



W.P.(MD) No.16938 of 2024

mentioned in Sub Rule (2) of Rule 22 of the said Rules, after the completion of one year of imprisonment from the date on which he returns from the last ordinary leave. Further, the petitioner's request has been rejected by the second respondent, by order dated 22.07.2024, on the ground that he has no power to extend the leave period, as leave has been granted by the Court.

5. For the sake of convenience, Rule 22(3) of the Tamil Nadu Suspension of Sentence Rules, 1982, is extracted hereunder:

“(3) The prisoner shall be granted the second or subsequent spell of ordinary leave not exceeding the period mentioned in Sub Rule (2) of Rule 22 of the said Rules, after the completion of one year of imprisonment from the date on which he returns from the last ordinary leave.”

6. As per Rule 22(3) of the said Rules, the prisoner cannot be granted leave for more than 21 days, while granting ordinary leave on second and subsequent spell. In the case on hand, the petitioner had already availed ordinary leave of fifteen days and as per Rule 22(3) of the said Rules, he has not completed 21 days, which is the maximum limit available under the said Rules and in fact, he has availed only fifteen days of ordinary leave. The petitioner has sought for leave to attend his father, who is under medical treatment in the Government Hospital, Theni. It is also stated that the reason



W.P.(MD) No.16938 of 2024

for which leave is sought for is true. Therefore, taking into consideration the facts and circumstances of the case, we are inclined to direct the respondents to grant six days ordinary leave, which is the remaining period as per Rule 22(3) of the said Rules, without escort, to the petitioner.

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

- (i) The respondents are directed to grant six days ordinary leave to the petitioner, namely, Srinivasan, (C.P.No.6011) from 01.08.2024 to 06.08.2024, without escort.
- (ii) During the said leave period, he shall report before the Inspector of Police, Allinagaram Police Station, Theni, daily at 06.30 p.m., without fail.
- (iii) He shall report back to the Superintendent of Prison, Central Prison, Madurai / second respondent, by 10.00 a.m., on 07.08.2024, without fail.
- (iv) The petitioner shall produce all necessary documents, along with a copy of this order, before the jail authorities.



WEB COPY



W.P.(MD) No.16938 of 2024

- (v) During the leave period, the petitioner / convict prisoner shall abide by all the conditions prescribed in the Jail Manual.
- (vi) The petitioner / convict shall utilize the leave only for the reason for which it has been granted and shall not partake in any other activities
- (vii) No costs.

[A.D.J.C., J.]

[K.R.S., J.]

29.07.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

Mark a copy of this order to the Inspector of Police, Allinagaram Police Station, Theni.

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To:

- 1.The Deputy Inspector General of Prison,
O/o.The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road, Madurai.
- 2.The Superintendent of Prison,
Madurai Central Jail,
New Jail Road,
Madurai District.



WEB COPY



W.P.(MD) No.16938 of 2024

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

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W.P.(MD) No.16938 of 2024

29.07.2024