



W.P(MD) No.20224 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P(MD) No.20224 of 2024

Kannipriya

... Petitioner

Vs

1. The Deputy Inspector General of Prisons,
DIG Office, Near Central Prison,
Madurai Range,
Madurai – 625 016.

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

... Respondents

PRAYER: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus, directing the 2nd respondent to not to insist the petitioner to produce two sureties of Rs. 1,00,000/- each so as to execute the order bearing No. 359/Utha/2/2024 dated 31.03.2024 by the 1st respondent by considering her representation, dated 26.07.2024



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W.P(MD) No.20224 of 2024

For Petitioner : Mr.A.Balaji

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

This writ petition has been filed in the nature of mandamus seeking a direction against the second respondent not to insist the petitioner to produce two sureties of Rs.1 lakh each to execute the order dated 31.03.2024, bearing No. 359/ Utha/2/2024 passed by the first respondent. In this connection, the petitioner had given a representation on 26.07.2024.

2.In the affidavit filed in support of the writ petition, the petitioner had stated that her husband viz., Kannan had suffered an order of conviction and life imprisonment, consequent to the Judgment passed in S.C.No.36 of 2013 for commission of an offence under Section 302 IPC. The appeal preferred before this Court had suffered an order of dismissal. Her husband has been in prison for the past 10 years as a Life Convict Prisoner No. 2877 at Central Prison, Palayamkottai.



W.P(MD) No.20224 of 2024

WEB COPY

3.Citing the reason that they have five children and that their marriage has to be determined by them, she has applied ordinary leave for her husband in accordance with Rule 20 of Tamil Nadu Suspension of Sentence Rules, 1982.

4.Considering the reasons, the first respondent had granted such leave by order, dated 31.03.2024 in No. 359/ Utha/2/2024, imposing among other conditions that she should produce two sureties.

5.The Tahsildar, Vilathikulam, Thoothukudi District has insisted the petitioner to produce two sureties with title deeds of two separate immovable properties worth Rs.1/- lakh. However, such demand had not been raised in writing by the Tahsildar and on oral instructions this condition has been insisted by the concerned Tahsildar. This has prevented the petitioner from taking her husband on leave on the basis of order passed by the first respondent.

6.Though the first respondent has passed an order granting leave, owing to that particular clog put by the Tahsildar, her husband cannot enjoy that particular leave and put the same to effective use.



W.P(MD) No.20224 of 2024

WEB COPY

Under those circumstances, the petitioner has given a representation on 26.07.2024. This writ petition has been filed for mandamus seeking a direction to consider the said representation.

7. We are informed that a Division Bench of this Court in W.P(MD) No.2787 of 2023 had examined the very same issue. Though in that particular writ petition, originally the Tahsildar, Veerakeralapudur was not a respondent therein, the Division Bench had impleaded the third to fifth respondents including the Tahsildar, Veerakeralapudur *suo-motu* by order dated, 20.12.2023. The Division Bench had examined the rules relating to the production of sureties and finally held as follows in para no.15(g).

“15....

(g) Rs.500/- is the prescription qua Rule 25 read with Form II and the bond has to be executed before jurisdictional revenue Tahsildar vide Rule 26 of said Rules. Therefore, our directive to accept a deposit of Rs.500/- and keep it under miscellaneous head account for being appropriated if the prisoner jumps bail ensures that the interest of the State as regards grant of leave or grant of bail for prison inmates is also adequately taken care of. In saying that it will suffice if



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W.P(MD) No.20224 of 2024

the revenue Tahsildar accepts the deposit, we also draw inspiration from Section 445 of Cr.P.C which reads as follows:

*'445. Deposit instead of recognizance.—
When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.*

State Amendment - [West Bengal]. - In its application to the State of West Bengal in section 445,-

(a) the words “with or without sureties” shall be omitted;

(b) for the word “permit”, substitute “direct”.-West Bengal Act 24 of 2003, Section 3.'

This means that the deposit can be either by way of sum of money or Government promissory note.”

8.We direct that Kannan, who is life convict prisoner No. 2877 in Palayamkottai Central Prison must be released on leave in accordance with the order of the first respondent, dated 31.03.2024 on production of bond to be executed before the jurisdictional Revenue



W.P(MD) No.20224 of 2024

WEB COPY

Tahsildar in accordance with Rules 25 and 26 of the Tamil Nadu Suspension of Sentence Rules, 1982. A direction is issued to the jurisdictional Tahsildar, Vilathikulam to accept the bond in accordance with Rules 25 and 26 of the Tamil Nadu Suspension of Sentence Rules, 1982 and not place any further clog in release of the petitioner's husband. A further direction is given to the Tahsildar, Vilathikulam to accept the sureties within four working days from the date on which the surety bonds are produced by the petitioner.

9. With the above directions, this petition stands disposed of.

(C.V.K., J.) (J.S.N.P, J.)
29.08.2024

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

PNM



W.P(MD) No.20224 of 2024

To
WEB COPY

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Madurai Bench of Madras High Court, Madurai.



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W.P(MD) No.20224 of 2024

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and
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ORDER MADE IN
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29.08.2024