



W.P(MD) No.20239 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2024

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD) No.20239 of 2024

Kunjaram

... 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, Madurai District.**

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to grant emergent leave to the petitioner's brother ie., Kadasamy, S/o.Shanmugam (C.P.No.6023) for a period of one week with escort to participate in the funeral rites of the petitioner's son-in-law and grandson, by considering the petitioner's representation dated 13.08.2024.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.T.Senthil Kumar,

Additional Public Prosecutor.



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ORDER

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This Writ Petition has been filed in the nature of Mandamus, seeking a direction to the respondents to grant emergent leave to the brother of the petitioner, namely, Kandasamy, who is convict prisoner (C.P.No.6023), for one week with escort to participate in the funeral rites of the petitioner's son-in-law and grandson. In this regard, the petitioner had also given a representation dated 13.08.2024.

2. When the matter has taken up for admission today (23.08.2024), the learned Additional Public Prosecutor appearing for the respondents forwarded a copy of the proceedings dated 19.08.2024 issued by the 2nd respondent / Superintendent of Prison, Central Prison, Madurai in proceedings No.2089/தரு. 2/2024, whereby, after noting down the nature of the offence, in which the convict was involved and the sentence, which had been imposed, he had refused to grant emergent leave. Reliance had been placed on Rule 6 of Tamil Nadu Suspension of Sentence Rules, 1982, which provides that for the death of father, mother, wife, husband, son, daughter, blood brother and blood sister, emergent leave can be granted.



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3.The concept of family in our country is wide enough to include anybody and everybody, who also comes into the family by way of marriage.

This would also indicate that a daughter-in-law and son-in-law can also be considered as family. Naturally, any child born to the son or daughter, would be a grand child and also member of the family. A narrow restricted view of the concept of the family cannot be countenanced by this Court. Rules are guidelines, but this Court under Article 226 of Constitution of India, exercising the extraordinary jurisdiction, can always expand the term 'family' to include those who are directly by blood, connected to anyone of the blood relatives of the person who seeks relief.

4.In the instant case, on 29.07.2024, the daughter of the petitioner, Nagajothi and her husband, Ravikumar were travelling along with their own child, Siddharth and met with an accident, due to which, the child, namely, Siddharth / grandson of the petitioner died on the spot. Both the daughter and son-in-law of the petitioner suffered injuries. The said Ravikumar succumbed to such injuries and died on 12.08.2024. There cannot be any greater heart breaking incident happening in the family of any person, when his daughter becomes a widow and losses her son-in-law and grandson.



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5.The grief which the petitioner would have undergone, cannot be imagined by this Court. Even though the order has been passed pending Writ Petition, by exercising our extraordinary jurisdiction, we would convert this Writ Petition into one of Certiorarified Mandamus and quash the order dated 19.08.2024 in proceedings No.2089/தகு.2/2024 issued by the 2nd respondent / Superintendent of Prison, Central Prison, Madurai and grant emergent leave to the brother of the petitioner, namely, Kandasamy, who is convict prisoner (C.P.No.6023) for six (6) days ie., (from 24.08.2024 to 29.08.2024) with escort.

6.Accordingly, this Writ Petition is allowed and the convict prisoner is granted emergency leave for six days with escort on the following conditions:-

(a)The detenu, Kandasamy, S/o.Shanmugam,
[Convict Prisoner No.6023], now detained in the Central
Prison, Madurai, is granted emergency leave for six (6)
days from 24.08.2024 to 29.08.2024 with escort;



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(b) The detenu shall be released from the prison with escort on 24.08.2024 at 10.00 a.m., and he shall return back to the prison on 29.09.2024 before 05.00 p.m;

(c) The expenses for providing escort shall be incurred by the State from and out of the wages earned by the detenue in the Jail; and

(d) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.

(C.V.K., J.) & (J.S.N.P, J.)
23.08.2024

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

Yuva

Note: Issue Order copy on 23.08.2024.

To

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

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- 2.The Superintendent of Prison,
Central Prison, Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.V.KARTHIKEYAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

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