



**W.P(MD) No.21090 of 2024**

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 22.10.2024

CORAM

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN  
and  
THE HON'BLE MS.JUSTICE R.POORNIMA**

**W.P(MD) No.21090 of 2024**

K. Palanisamy

... Petitioner

Vs

1. The Deputy Inspector General of Prisons,  
Prisons and Correctional Services Department,  
Madurai Range, Madurai Central Prison Campus,  
New Jail Road, Madurai

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

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified mandamus and call for the records of the impugned order passed by the second respondent in No.E-314959/Tha.Ku.2/2024 dated 28.08.2024 to set aside the same and further direct the respondents 1 and 2 to extend the ordinary leave to my son from 04.09.2024 to 04.10.2024 for further 30 days



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For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor.

### **ORDER**

The writ petition has been filed the nature of certiorarified mandamus to call for the records of the second respondent dated 28.08.2024 seeking to set aside the same and direct the respondents to grant ordinary leave for the son of the petitioner namely Jothimurugan, C.P. No.2193 who had been confined at Central Prison, Madurai.

2. The son of the petitioner had been convicted by the Special Court for POCSO Act Cases, Dindigul in Spl.S.C. No. 108 of 2023 for the offence punishable under Section 10 of POCSO Act and sentenced to undergo seven years imprisonment and to pay a fine of Rs.75,000/-. CrI.A(MD) No. 150 of 2024 is pending.



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3. The reasons stated for grant of leave is that the wife of the petitioner/mother of the convict prisoner is suffering from serious heart ailment. We wanted a report from the Government Rajaji Hospital, Madurai in this regard .

4. A report had been received by the learned Additional Public Prosecutor who had forwarded the same to this Court. The report is as follows:

*“patient name Nagalakshmi 55,Female  
w/o.Palanisamy residing door No.2 Narayasamy Das  
Nagar, Round road, Dindigul admitted in  
Government Rajaji Hospital, Madurai IP No.58586  
on 09.09.2024 with chief complaint of chest pain. She  
is a known case of Diabetes Mellitus ,coronary  
artery disease, (Angioplasty) done for single vessel  
disease on 2019 under regular medication. Routine  
investigation sent. Cardiologist opinion obtained and  
treated accordingly. Medical condition of the*



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*petitioner Type.2 Diabetes mellitus/coronary  
Angioplasty done at 2019) Diabetic kidney disease,  
patient treated conservatively , improved  
symptomatically and discharged on 13.09.2024”*

5. The learned counsel appearing for the petitioner drew the attention of this Court to the earlier order passed by this Court in W.P(MD) No. 17228 of 20244 dated 19.08.2024 passed for the very same convict prisoner. This Court in view of the fact that a reference is pending before the Hon'ble Full Bench relating to whether the period of remand should be counted for the period undergone subsequent to the conviction for examination of grant of leave, had granted ordinary leave for a period of 12 days . It is contended that the medical condition of the mother of the convict prisoner is very serious and therefore ordinary leave may be granted.

6.Heard the learned Additional Pubic Prosecutor also.



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7. One of the objection raised by the learned Additional Public Prosecutor is the ineligibility of the son of the petitioner to be granted ordinary leave, in view of the fact that he has not completed three years of sentence after conviction. It is also contended that the remand period cannot be taken into consideration in view of the specific rules available in Tamil Nadu Suspension of Sentence Rules, 1982.

8. But, however reference is pending before the Hon'ble Full Bench of this Court on the issue, whether the period of remand could be counted or not.

9. In view of the nebulous situation and since the Hon'ble Full Bench had not yet answered the issue, we would grant leave to maintain consistency with the earlier order of the Court and grant nine days ordinary leave to the son of the petitioner namely Jothimurugan, S/o. Palanisamy, C.P. No.2193 commencing from 28.10.2024@ 10.30 am., to 05.11.2024@ 5.00 pm., During the interregnum period the convict prisoner shall report before the Inspector of Police Thadikombu Police Station, Dindigul District daily at 10.30 am., without fail.



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10. Observing as above, the writ petition stands disposed of.

**(C.V.K., J.)      (R.P, J.)**  
**22.10.2024**

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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Note: Issue order copy on 24.10.2024

To

1. The Deputy Inspector General of Prisons,  
Prisons and Correctional Services Department,  
Madurai Range, Madurai Central Prison Campus,  
New Jail Road, Madurai

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

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to  
The Inspector of Police  
Thadikombu Police Station  
Dindigul District



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**C.V.KARTHIKEYAN, J.**  
**and**  
**R.POORNIMA, J.**

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