



W.P(MD)No.26139 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2024

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P(MD)No.26139 of 2023

Malarvizhi

... Petitioner

vs.

1. The Principal Secretary to Government,
Home, Prohibition and Excise (Prison – IV),
Fort St.George, Chennai - 600 009.

2. Inspector General of Prisons,
O/o.Prison Department Headquarters,
Whannels Road,
Egmore, Chennai - 600 008.

3. The Deputy Inspector General of Prisons,
Trichy Range, Race Course Road,
Trichy - 620 023.

4. The Superintendent of Prisons,
Central Prison,
Trichy - 620 020.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent vide her proceedings in No.20092/ThaKu.4/2023 dated 17.10.2023 and quash the same as illegal and void and then consequent direction may be issued to



W.P(MD)No.26139 of 2023

the respondents to grant 30 days ordinary leave to the petitioner's husband Rajkumar S/o.Chinnandi (C.P.No.23946) confined at Central Prison, Trichy, within stipulated time.

For Petitioner : Mr.C.Karthikeyan
For Respondents : Mr.S.Ravi, Additional Public Prosecutor

ORDER

[Order of the Court was made by **K.K.RAMAKRISHNAN, J.**]

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent vide her proceedings in No. 20092/ThaKu.4/2023 dated 17.10.2023 and quash the same as illegal and void and for a consequential direction to the respondents to grant 30 days ordinary leave to the petitioner's husband Rajkumar S/o.Chinnandi (C.P.No.23946) confined at Central Prison, Trichy, within the stipulated time.

2. Vide judgment and sentence dated 22.11.2021, the petitioner's husband Rajkumar was convicted in Spl.S.C.No.12 of 2020 on the file of the Mahila Court, Pudukkottai, for the offences under Section 6(1) of POCSO (Amendment) Act, 2019 and sentenced to



W.P(MD)No.26139 of 2023

undergo life imprisonment; convicted for the offence under Section 328 IPC and sentenced to undergo 10 years rigorous imprisonment and also convicted for the offence under Section 506(1) IPC and sentenced to undergo 2 years rigorous imprisonment with fine amount for the respective charges with default sentences. The petitioner's husband is confined in Central Prison, Trichy. The petitioner made an application seeking to grant 21 days of ordinary leave to her husband but the same was rejected vide impugned order dated 17.10.2023. The reason assigned in the impugned order is that the prison inmate has not completed the prescribed period of incarceration under the Tamil Nadu Suspension of Sentence Rules, 1982, to avail ordinary leave.

3. This Court on earlier occasion by order dated 27.11.2023 has passed the following order:

"Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 02.11.2023.

2.Pursuant to aforementioned earlier proceedings adverting to paragraph 6, learned Prosecutor submits that the victim continues to reside in the vicinity and has placed before us a report from the jurisdictional Police Station in the form of communication from Sub-Inspector of Police, Kariayar Police Station, Pudukottai District signed on 17.11.2023. As regards the ground on which



leave is sought (ill health of prison inmate's mother), learned Prosecutor fairly submits that there is no dispute.

3.Regarding victim residing in the vicinity, learned counsel sought time to file a suitable affidavit and bring it on Board. Request acceded to.

4.List next week.

5.List on 08.12.2023."

4. As per the aforesaid order of this Court, the petitioner has filed an affidavit on 08.12.2023. This Court perused the said affidavit. It is relevant to extract below paragraphs 7 and 8 of the affidavit:

"7. I most humbly submit that during his ordinary leave, my husband will reside with me in my parental home situated at No. 155, Elivankorai, Ponnamaravathi Taluk, Oliyamangalam, Pudukottai District-621 308. Further, my parents namely Mr.Selvam and Mrs.Bagyam Selvam are also willing to stand as sureties for grant of 30 days ordinary leave to my husband Rajkumar. He will duly surrender before the respondent authorities on the crucial date as stipulates by this Hon'ble Court.

8. Under these circumstances, I prayed that this Hon'ble Court may be pleased to quash the Impugned Order passed by the 415 respondent vide her proceedings in No.20092/ThaKu.4/2023 dated 17.10.2023 and consequent direction may be issued to the respondents to grant 30 days ordinary leave to my husband Rajkumar S/o. Chinnandi (C.P.No.23946) confined at Central Prison, Trichy within stipulated time by considering this



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W.P(MD)No.26139 of 2023

Undertaking Affidavit and then and pass such other order or orders as this Hon'ble Court may deem fit and proper as to the circumstances of this case and thus render justice."

5. We have heard the learned counsel for the petitioner, learned Prosecutor and perused the affidavit filed by the petitioner.

6. In view of the affidavit dated 08.12.2023 filed by the petitioner, this Court is inclined to grant 21 days of ordinary leave to the petitioner's husband commencing from 13.01.2024 to 02.02.2024. During the leave period, the petitioner's husband / prison inmate shall appear before the trial Court daily at 10.30 a.m. On the expiry of leave, the prison inmate shall return and surrender by dusk ie., by 05.30 p.m on 02.02.2024 before the jail authorities.

7. With the above direction, the Writ Petition is allowed. No costs.

(J.N.B., J.) (K.K.R.K., J.)
Index : Yes / No 11.01.2024
Neutral Citation : Yes / No
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Issue order copy on 12.01.2024.



W.P(MD)No.26139 of 2023

To

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



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J.NISHA BANU, J.
and
K.K.RAMAKRISHNAN, J.

bala

ORDER MADE IN
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DATED : 11.01.2024