



W.P(MD) No.27818 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.P(MD) No.27818 of 2024
and
W.M.P.(MD)No.23612 of 2024**

Saraswathi

... Petitioner / Sister of the Prisoner

Vs

**1.The State of Tamil Nadu
Represented by its
The Deputy Inspector General of Prison,
Madurai Zone,
Madurai Central Prison,
Madurai-625 016.**

**2.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli-627 002.**

**3.The Superintendent of Police,
Office of the Superintendent of Police,
Tenkasi.**

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records pertaining to the impugned order of the 2nd Respondent dated 24.09.2024 in No. 1837/ THAHU.2/2024 and quash the same and consequently, directing the Respondents to grant emergency leave for 15 days without escort to the petitioner's brother, the prisoner, Ashok @ Ashok kutty S/o. Kottaisamy, life convict No. 2567 detained at Central Prison, Palayamkottai.

For Petitioner : Mr.R.Narayanan

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The petitioner's brother Ashok @ Ashok Kutty (LCT No.2567) is undergoing life sentence in Central Prison, Palayamkottai. She sought 15 days emergency leave for her brother. The petitioner is said to be seriously ill and certain arrangements are to be made. The second



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respondent however declined to grant leave on the ground that the convict is facing prosecution in C.C.No.21 of 2020 on the file of the Judicial Magistrate, Sankarankovil. Rejection order dated 24.09.2024 was passed. Challenging the same, this writ petition came to be filed.

3. The learned Additional Public Prosecutor submitted that the convict absconded and jumped bail when he was granted leave in the year 2016. He was secured only after two years. He also drew our attention to the pendency of C.C.No.21 of 2020. His argument is that Rule 35 of Tamil Nadu Suspension of Sentence Rules will operate as impediment.

4. We would have sustained the said objection of the learned Additional Public Prosecutor. But for the fact that convict had been granted emergency leave in the years 2020-2021, 2022-2023 and he had promptly surrendered on the expiry of the leave period. This in our view is a circumstances in favour of the convict. It is also stated that the convict is also having some medical ailments. The Hon'ble Division Bench of this Court had held that Rule 35 will not come in the way of the



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writ Court from exercising its constitutional power. We are satisfied that the case for grant of emergency leave has been made out. We grant 9 days emergency leave for the convict in the following terms:-

6. Accordingly, the prisoner is granted emergency leave for 9 days without escort on the following conditions :-

(a) The prisoner, Ashok @ Ashok Kutty S/o.Kottaisamy [LCT.No.2567], now detained in the Central Prison, Palayamkottai, is granted ordinary leave for nine (9) days from 27.11.2024 to 05.12.2024.

(b) The prisoner shall be released from the prison at 10.00 a.m., on 26.11.2024 and he shall return back to the prison at 5.00 p.m., on 06.12.2024.

(c) During the said leave period, he shall report before the Inspector of Police, Vasudevanallur Police Station, Tenkasi District, daily at 10.00 a.m., from 27.11.2024 onwards, without fail.

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



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

(G.R.S., J.) (R.P., J.)
21.11.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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NOTE: Issue Order Copy on 22.11.2024

To

1. The Deputy Inspector General of Prison,
Madurai Zone,
Madurai Central Prison,
Madurai-625 016.

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

3. The Superintendent of Police,
Office of the Superintendent of Police,
Tenkasi.

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

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The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.



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AND
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