



W.P(MD) No.28917 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 03.12.2024

CORAM

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

W.P(MD) No.28917 of 2024

Malarkodi

... Petitioner

Vs

**1.The Secretary to Government,
Home Department (Prison),
Government of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai-9.**

**2.The Additional Director General of Police (Prisons)/
The Inspector General of Police,
Office of ADGP (Prisons) / I.G.of Prisons,
Thalamuthu Natarajar Maaligai,
Egmore,
Chennai-8.**

**3.The Superintendent of Prison,
Central Prison,
Madurai.**

**4.The Superintendent of Police,
Madurai District.**

... Respondents



W.P(MD) No.28917 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondents to grant one month ordinary leave without escort to the petitioner's husband namely Thangapandi S/o.late Ponnaiya a life convict prisoner (Life Convict No.5858) now confined at Central Prison, Madurai for the purpose of executing gift settlement to petitioner's son for a period of one month by considering the petitioner's representation dated 03.09.2024.

For Petitioner : Mr.S.Srikanth

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 husband is undergoing life sentence in Central Prison, Madurai. The petitioner has sought ordinary leave for him. The reason appears to be that some document has to be executed. The convict is in incarceration for more than five years. He is entitled to 21 days ordinary leave.



W.P(MD) No.28917 of 2024

3. The learned Additional Public Prosecutor informs the Court that on 09.09.2024 itself, the petitioner's request was negatived. The primary reason assigned in the said order is pendency of the SLP filed by the convict. The other reasons set out in the said order do not appeal to us. The learned Additional Public Prosecutor submits that without challenging the said order, the petitioner has filed the writ petition in the nature of writ of mandamus. The petitioner's counsel states that this rejection order was never served on the petitioner.

4. We do not want to stand on technicalities. We have been consistently holding that the constitutional power under Article 226 of the Constitution of India can be invoked even if SLP is pending before the Hon'ble Supreme Court. In this view of the matter, we direct the third respondent to grant 21 days ordinary leave without escort.

5. Accordingly, the convict-prisoner is granted ordinary leave for 21 days without escort on the following conditions :-

(a) The convict prisoner, Thangapandi S/o.Ponnaiya [Life Convict No.5858], now detained in the Central Prison, Madurai, is granted ordinary leave for twenty one (21) days from 07.12.2024 to 27.12.2024.



W.P(MD) No.28917 of 2024

(b) The convict prisoner shall be released from the prison at 05.00 p.m., on 06.12.2024 and he shall return to the prison at 10.00 am., on 28.12.2024.

(c) During the said leave period, he shall report before the Inspector of Police, Usilampatti Town Police Station, Madurai District, daily at 07.00 a.m., & 07.00 pm., from 07.12.2024 onwards, without fail.

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

4. With the above direction, the Writ Petition stands allowed.

No costs.

(G.R.S., J.) (R.P., J.)
03.12.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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NOTE: Issue Order Copy on 04.12.2024



W.P(MD) No.28917 of 2024

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To

- 1.The Secretary to Government,
Home Department (Prison),
Government of Tamil Nadu,
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Chennai-9.
- 2.The Additional Director General of Police (Prisons)/
The Inspector General of Police,
Office of ADGP (Prisons) / I.G.of Prisons,
Thalamuthu Natarajar Maaligai,
Egmore,
Chennai-8.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Superintendent of Police,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.



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W.P(MD) No.28917 of 2024

G.R.SWAMINATHAN, J.
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W.P(MD) No.28917 of 2024

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