



W.P(MD)No.30008 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM

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

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Kavitha

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by the Secretary to Government,
Home (Prison - IV) Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Director General of Police and Inspector
General of Prisons and Correctional Services,
Whannels Road, Egmore, Chennai - 600 008.
- 3.The Deputy Inspector General of Prisons
and Correctional Services,
Madurai Range, Madurai Central Prison Campus,
New Jail Road, Madurai - 625 016.
- 4.The Superintendent of Prison,
Central Prison, Palayamkottai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the



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respondents to release the petitioner's father namely, Santhanapandi (LCT No.6702) aged 50 years, S/o.Krishnasamy, who confined at Palayamkottai Central Prison on ordinary leave by accepting his personal bond alone.

For Petitioner : Mr.R.Venkatesan

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

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.The petitioner's father is undergoing life sentence in Central Prison, Palayamkottai. He has been in prison for more than 23 years. He was recently granted parole for 40 days. The petitioner has filed this writ petition stating that parole should be granted on execution of own bond.

3.The learned counsel for the petitioner relied on the order dated 20.12.2023 made in W.P.(MD)No.27789 of 2023 (M.Mariaselvam Vs.



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State of Tamil Nadu). We went through the contents of the said order.

Paragraph No.16 of the said order only states that the authority shall not insist on ownership of immovable properties qua sureties. It does not say anything else.

4.Rules 25 and 26 of the Tamil Nadu Suspension of Sentence Rules, 1982 are as follows:-

“25.General conditions governing for grant of emergency and ordinary leave.-

The following conditions shall, invariably, be laid down while granting leave in addition to such other conditions, if any, specified by the Government, Inspector-General of Prisons or [the Deputy Inspector-General of Prisons] or the Superintendent of Prisons, as the case may be, as may be deemed necessary:-

(i) that the prisoner shall execute a surety bond in Form II for rupees five hundred with two sureties for a like sum each;

(ii) that he shall report at the Police station daily once;

(iii) that the prisoner shall reside at the place specified by the Superintendent of Prisons or the [Deputy Inspector-General of Prisons] or the Government, as the case may be, and shall not go beyond the limits of that place;

(iv) that the prisoner shall be of good behaviour and shall not commit any offence during his leave;



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(v) that the prisoner shall not associate with bad characters or lead a dissolute life;

(vi) that the prisoner shall be liable to be recalled immediately to prison in case he violates any of the conditions;

(vii) that the prisoner shall surrender himself to the Superintendent of the Prison on expiry of leave granted or on recall; and

[(viii) that in case of female pregnant prisoners, for having delivery outside the prison, she shall reside at the place of delivery proposed by her.]

26.Execution of bonds.- *The surety bond of the sureties shall be executed before a Tahsildar who may send the same to the Superintendent of the Prison duly attested and affixing his office seal. The surety bond of the prisoner shall be executed before the Superintendent of the Prison who may duly attest and affix his office seal.”*

5.The said rules are very much holding good and have not been struck down as ultra vires. Therefore, the prisoner will have to necessarily comply with the rule requirement for coming out on parole. Of course, as directed by the Hon'ble Division Bench in W.P.(MD)No.27789 of 2023, the Jail Superintendent cannot insist that the surety must possess immovable property.



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6. With this clarification, this writ petition is disposed of. No costs.

(G.R.S. J.) & (R.P. J.)
12.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1. The Secretary to Government,
Home (Prison - IV) Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director General of Police and Inspector
General of Prisons and Correctional Services,
Whannels Road, Egmore, Chennai - 600 008.
3. The Deputy Inspector General of Prisons
and Correctional Services,
Madurai Range, Madurai Central Prison Campus,
New Jail Road, Madurai - 625 016.
4. The Superintendent of Prison,
Central Prison, Palayamkottai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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and
R.POORNIMA, J.**

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