



W.P.No.3450 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.3450 of 2025
and W.M.P.No.3834 of 2025

V.Susila

... Petitioner

Vs.

1.The Deputy Inspector General of Prisons
Vellore Range
Vellore 632 002

2.The Superintendent of Prisons
Central Prison
Cuddalore -4

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records No.677335/Tha.Ku 2/2025 dated 25.01.2025 passed by respondent No.2 and quash the same and consequently direct the respondents to grant 10 days emergency leave to the petitioner's husband Venkatesan S/o.Govinda Padayachi, aged 61 years, Convict Prisoner No.17001, (PID No.367698) now confined in the Central Prison, Cuddalore.

For Petitioner : Mr.P.Pugalenth



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For Respondents

: Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by M.Sylvester John
Advocate

ORDER

M.S.RAMESH, J.
AND
N.SENTHILKUMAR, J.

This Writ Petition has been filed seeking for a direction, to direct the respondents to grant ordinary leave for 10 days without escort to the detenu Venkatesan, S/o.Govinda Padayachi, aged about 61 years bearing Convict No.17001/PID No.367698 confined at Central Prison, Cuddalore.

2. Learned counsel for the petitioner submitted that the petitioner is the wife of the convict prisoner. The convict prisoner's brother is no more and his brother's son is getting married on 10.02.2025. He is the only elderly person available in the family and according to their customs only the petitioner's husband should conduct the marriage from the groom's side. Hence, the petitioner has given a representation dated 20.01.2025, which was rejected by the respondent on the ground that a Special Leave Petition is pending before the Hon'ble Supreme Court as against the



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judgment and conviction of the petitioner's husband by placing reliance on Rule 2 (4) of the Tamil Nadu Suspension of Sentence Rules.

3. Learned Additional Public Prosecutor produced a copy of the Probationary Officer's Report dated 25.01.2025, which recommends for release of the petitioner's husband on Ordinary Leave. However, as against the judgment of conviction and sentence passed by the trial Court, the petitioner's husband preferred an appeal in SLP (Crl) No.000123/2023, which is pending before the Hon'ble Supreme Court and therefore, the respondents are not in a position to grant Ordinary leave in view of an embargo under Rule 20 of Tamil Nadu Suspension of Sentence Rules, 1982.

4. We have given careful consideration to the submissions made on either sides. The reason assigned by the petitioner for grant of Ordinary Leave to her husband is genuine as he is the only elderly person available in the family to conduct the marriage of his brother's son.

5. Insofar as the objection raised by the learned Additional Public



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Prosecutor that since an appeal against the judgment of the conviction and sentence is pending before this Court which has an embargo is concerned, a co-ordinate Bench of this Court, in which, one of us is a party, in the case of ***Latha vs State represented by Deputy Inspector General of Prisons and another in W.P.(MD)No.6398 of 2023 dated 29.09.2023*** had already taken a view that pendency of an appeal before the appellate Court will not be an embargo for consideration of any request for grant of Ordinary Leave.

6. In view of the ratio laid down in ***Latha's case***, we do not find any justification on the part of the respondents to raise the pendency of an appeal as an embargo.

7. In the light of the above observations and findings, there shall a direction to the respondents to forthwith release the petitioner's husband viz., Venkatesan, S/o.Govinda Padayachi, aged about 61 years, on Ordinary Leave for a period of 6 days, without escort, on the following conditions.

(i) Respondents are directed to release the Convict



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Prisoner viz., Venkatesan, S/o.Govinda Padayachi, aged about 61 years, on Ordinary Leave for a period of 6 days i.e., from 08.02.2025 to 13.02.2025.

(ii) The Convict Prisoner shall be released on 08.02.2025 at 10.00 am and surrender before the Superintendent of Prisons, Central Prison, Cuddalore-4, on 13.02.2025 at 05.30 p.m.

(iii) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

8. With the above directions, the writ petition stands allowed. Consequently, the connected miscellaneous petition is closed.

[M.S.R, J.]

[N.S, J.]

06.02.2025

kas

Note: Issue Order Copy on 07.02.2025



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M.S.RAMESH, J.
and

N.SENTHILKUMAR, J.

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To

1.The Deputy Inspector General of Prisons
Vellore Range
Vellore 632 002

2.The Superintendent of Prisons
Central Prison
Cuddalore -4

3.The Public Prosecutor
High Court of Madras,
Chennai 600 104.

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