



W.P.No.7505 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.7505 of 2025
and W.M.P.No.8406 of 2025

Kasinathan

... Petitioner

Vs.

1.The State represented by its
The Deputy Inspector General of Prison
Gandhi Irwin Road, Egmore
Chennai 600 008

2.The Superintendent
Puzhal Central Prison - I
Puzhal - 600 066

... 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 connected with impugned order in proceeding No.592691/Thaku2/2024 dated 30.12.2024 passed by the second respondent and quash the same and directing the respondents to grant emergency leave for 15 days without escort to the detenu, Kalaiselvan, S/o.Chandran, aged about 35 years bearing Convict No.10721 (PID 56809) confined at Central Prison, Puzhal-I.



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For Petitioner : Ms.S.Sadhana
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

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

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records connected with impugned order in proceeding No.592691/Thaku2/2024 dated 30.12.2024 passed by the second respondent and quash the same and directing the respondents to grant emergency leave for 15 days without escort to the detenu, Kalaiselvan, S/o.Chandran, aged about 35 years bearing Convict No.10721 (PID 56809) confined at Central Prison, Puzhal-I.

2.The learned counsel for the petitioner submitted that the petitioner is the father in law of the convict prisoner. After the imprisonment of his son in law, his daughter got married to someone and left their grand daughter with him, due to which, his grand daughter is



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feeling sick without her parents. If emergency leave is granted to his son in law, his family can be improved, he can arrange for finance to his grand daughter's education, he can spend time with his daughter to make her feel better. The petitioner herein is a street vendor and could earn only very little money, which is not sufficient for his medical treatment as well as for spending it to his grand child. Hence, the presence of his son in law is very much required. Hence, a representation was sent to the respondents on 11.12.2024 which came to be rejected by the 2nd respondent vide impugned order dated 30.12.2024 citing that there are pending trial against him.

3. Learned Additional Public Prosecutor has produced a report of the Probation Officer dated 09.01.2025, wherein the probation officer has stated that since the petitioner is having pending trial cases, he is not entitled for any leave. He has also stated that the reasons stated in the representation of the petitioner is genuine and the petitioner's family needs financial assistance from the convict as his grand daughter is studying in a private school and she is also not feeling well.



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4. It is seen from the records that the petitioner's representation was rejected by the jail authorities vide its order dated 30.12.2024 on the ground the prisoner is not eligible for any leave as per Rule No.35 of Tamil Nadu Suspension of Sentence Rules 1982, as the said prisoner has case pending trial against him.

5. It is true that as per Rule No.35 of Tamil Nadu Suspension of Sentence Rules 1982, as the said prisoner has case pending trial against him. However, this Court, in several of its earlier decisions, has held that the provisions are not mandatory in nature but rather directory, which grants power to the Government for exemption of certain provisions. In this background, this Court had passed orders by invoking its extraordinary powers under Article 226 of the Constitution of India, for granting emergency leave.

5. This Writ Petition stands allowed accordingly. The impugned proceedings of the 2nd respondent dated 30.12.2024 is hereby quashed. Consequently, there shall be a direction to the respondents herein, to grant one week emergency leave **“without escort”** to the life convict viz.



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Kalaiselvan, S/o.Chandran, aged about 35 years, Life Convict No.10721, commencing from 03.04.2025 to 09.04.2025, with a condition that the life convict shall report before the P3, Viyasarpadi Police Station, Chennai, daily at 10.30 a.m. and 5.30 p.m. After expiry of the Ordinary Leave, the life convict shall surrender before the Jail Authority on 10.04.2025 before 10.00 a.m. The prisoner shall utilize the leave only for the purpose for which it has been granted and shall not indulge in any other activities.

6. With the above direction, the Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

[M.S.R, J.] [N.S. J.]

25.03.2025

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue Order Copy on 01.04.2025.



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

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To

1.The Deputy Inspector General of Prison
Gandhi Irwin Road, Egmore
Chennai 600 008

2.The Superintendent
Puzhal Central Prison - I
Puzhal - 600 066

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

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