



W.P.No.11130 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.07.2025

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**  
**AND**  
**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.No.11130 of 2025  
and  
W.M.P.No.12561 of 2025

Yasmin

...Petitioner

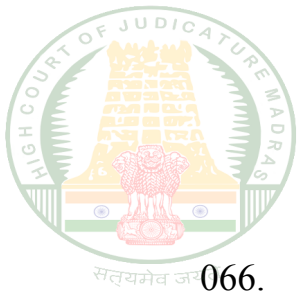
vs.

1.The Deputy Inspector General of Prisons,  
Chennai Range, Prison Head Quarters,  
Whannels Road, Egmore,  
Chennai – 600 008.

2.The Superintendent of Prisons,  
Central Prison – I,  
Puzhal, Chennai – 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 the impugned order dated 29.08.2024 passed by the second respondent and quash the same and directing the respondents to grant ordinary leave for 30 days without escort to the detenue, Mr.Chidambaram, S/o.Mr.Palanimuthu, Hindu, aged about 32 years, Convict No.8277, confined at Central Prison – I, Puzhal, Chennai – 600



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For Petitioner : Mr.N.Vishnuvardhan

For Respondents : Mr.E.Raj Thilak,  
Additional Public Prosecutor

**ORDER**

(Order of the Court was made by *M.S.RAMESH,J.*)

After we had pronounced the final orders on 27.06.2025, the Writ Petition was again posted today for a clarification under the caption 'for being spoken to'. After hearing both sides, the following order is passed.

2. The petitioner herein is the sister-in-law of the convict prisoner, namely Chidambaram, S/o.Palanimuthu, who has been convicted under Section 8(c) r/w 20b(ii)(c) and 8(c) r/w 29(1) of Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'NDPS Act') and sentenced to undergo rigorous imprisonment for ten years for each offences, together with fine. When she had made an application on 08.08.2024 to the Superintendent of Prisons, Central Prison-I, Puzhal, seeking for grant of ordinary leave for 30 days, predominantly on the ground that her mother is terminally ill and the presence of her brother-in-



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law is required for making arrangements for the livelihood of the family, her request was rejected through the impugned order dated 29.08.2024, on the sole ground that since he has been convicted for the offence under the NDPS Act, there is a bar under Rule 21(h)(3) of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'TNSOS Rules') for grant of ordinary leave. This rejection order is assailed in the present Writ Petition.

3. Under Rule 21(h)(3) of the TNSOS Rules, persons, who have been convicted for smuggling of commercial quantity of narcotic and psychotropic substances, are ineligible to seek for ordinary leave. The convict prisoner, who had illegally dealt with commercial quantity of NDPS, was not eligible to seek for ordinary leave and hence, his request in this regard was rejected.

4. Incidentally, Section 32-A of the NDPS Act prohibits suspension, remission or commutation in any sentence awarded under this Act, subject to the provisions of Section 33 of the NDPS Act. The constitutional validity of Section 32-A of the NDPS Act was put under challenge by the



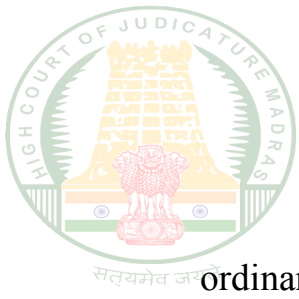
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convicts of the offences under the NDPS Act before the Hon'ble Supreme Court in the case of ***Dadu alias Tulsidas Vs. State of Maharashtra*** reported in ***(2000) 8 SCC 437***, predominantly on the ground that the provision was arbitrary, discriminatory and violative of Articles 14 and 21 of the Constitution of India, which creates unreasonable distinction between prisoners convicted under the NDPS Act and the prisoners convicted for the offences punishable under various other statutes. In the said decision, the Writ Petitions therein were disposed of by holding, *inter alia*, that Section 32-A does not in any way affect the powers of the authority to grant parole and further declared it to be unconstitutional, to the extent it takes away the right of the Court to suspend the sentence of a convict under the NDPS Act.

5. The analogy adopted by the Hon'ble Supreme Court in ***Dadu's case (supra)*** was that the bar under Section 32-A created an unreasonable distinction between the NDPS prisoners and the prisoners in various other statutes.

6. While Rule 21(h)(3) of the TNSOS Rules disqualifies grant of



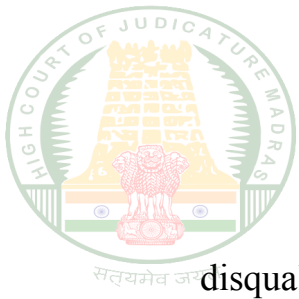
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ordinary leave to the prisoners, who had committed offences of dealing with commercial quantity under the NDPS Act, the other prisoners convicted for offences punishable under various other statutes were made eligible to seek for ordinary leave. By applying the ratio laid down in ***Dadu's case (supra)***, we are of the view that Rule 21(h)(3) also creates an unreasonable distinction between the prisoners under the NDPS Act and the prisoners of other statutes. In this background, we recommend to the Government of Tamil Nadu for considering the amendment of Rule 21(h)(3) of the TNSOS Rules, in the light of the *ratio decidendi* in ***Dadu's case (supra)***.

7. In the light of the aforesaid findings, we are inclined to consider the petitioner's request for grant of ordinary leave to the convict prisoner.

8. Incidentally, we have also come across a procedural irregularity in the impugned order. The Tamil Nadu Suspension of Sentence Rules provides for grant of emergency leave and ordinary leave to the convict prisoners in Tamil Nadu, their eligibility to claim the grounds thereof, the authorities to consider such leave applications, procedures to be adopted,

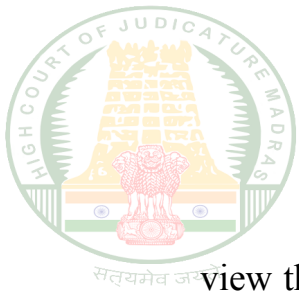


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disqualifications, etc.  
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9. While the Superintendent of Prisons is the authority to consider petitions seeking for emergency leave to the prisoners under Rule 10, the Deputy Inspector General of Prisons is the competent authority to grant ordinary leave. In the present case, the Superintendent of Prisons has rejected the petitioner's application seeking for ordinary leave for her brother-in-law. The exercise of such authority by the Superintendent of Prisons is opposed to the TNSOS Rules.

10. Rule 22 of the TNSOS Rules lays down the eligibility criteria for grant of ordinary leave. Rule 24 prescribes the procedure for a competent authority to process a petition seeking for grant of ordinary leave. As per the said Rule, whenever the Superintendent of Prisons receives a petition for grant of ordinary leave, he shall refer the same to the Probation Officer concerned within three days on the advisability of the ordinary leave of the prisoner in question. On receipt of the petition, the Probation Officer shall personally enquire into and send his report to the Superintendent of Prisons in Form I, within ten days. In cases where the Probation Officer is of the



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view that grant of leave is likely to involve breach of peace in the locality, he shall take the views of the local jurisdictional Police, for the limited purpose of avoiding any breach of peace and record his views in the same Form. In cases where there is no likelihood of breach of peace, the Probation Officer shall send his report directly to the Superintendent of Prisons, without consultation with Police.

11. When the Superintendent of Prisons is in receipt of the Probation Officer's report, he shall forward the petition, along with supporting documents, to the Deputy Inspector General of Prisons within six days and await for his orders. The Deputy Inspector General of Prisons shall then pass orders, as he deems fit, within seven days of the proposal of the Superintendent of Prisons. The entire process of the disposal of the petition is mandated to be completed within twenty eight days from the date of receipt of the original petition seeking for leave.

12. On an overall appraisal of the mandatory procedure, it is evident that it is only the Deputy Inspector General of Prisons who is the competent authority, as provided under Rule 19 of the TNSOS Rules, to



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consider the application seeking for ordinary leave. A close reading of Rule 24 suggests that such applications are required to be submitted to the Deputy Inspector General of Prisons, through the Superintendent of Prisons. However, the duty of the Superintendent of Prisons is only as provided under Rule 24, which has been detailed supra, and he is not authorized to either reject or grant ordinary leave to any convict prisoner.

13. In the instant case, when the petitioner had made an application to the Superintendent of Prisons, he had chosen to refer to the prohibition under Rule 21(h)(3) of the TNSOS Rules and had straight away rejected the application. In our view, the Superintendent had exceeded his authority in rejecting the application and hence, the impugned order is liable to be quashed on the ground of lack of authority also.

14. A perusal of the Probation Officer's report dated 03.09.2024, which has been produced by the learned Additional Public Prosecutor before this Court, reveals that the prisoner was convicted for the offence under Section 20(b)(ii)(c) of the NDPS Act, among other offences, and sentenced to undergo rigorous imprisonment for ten years, together with



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fine. It is also seen that the prisoner had undergone a total imprisonment of five years, six months and 11 days and had not availed any leave during his period of sentence.

15. In the enquiry conducted by the Probation Officer, it has been recorded that the reason assigned by the petitioner about her mother being terminally ill was true, since she was affected with Uterus Cancer and the presence of the convict prisoner was required for physical support, as well as for making arrangements for the livelihood of his family and had therefore recommended for grant of ordinary leave.

16. Under Rule 22 of the TNSOS Rules, when a prisoner has completed two years imprisonment out of ten years of the total sentence period, he would be eligible to avail twenty eight days of ordinary leave, on completion of five years of total imprisonment. It is not in dispute that the convict prisoner had already completed five years of his total sentence and therefore would be eligible to claim the benefit under this Rule.

17. In the light of the above observations and findings, the impugned



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order passed by the second respondent dated 29.08.2024, is set aside.

Consequently, there shall be a direction to the respondents herein to grant twenty eight (28) days ordinary leave '**without escort**' to the petitioner's brother-in-law, namely Chidambaram, S/o.Mr.Palanimuthu, Convict No.8277, confined at Central Prison – I, Puzhal, Chennai – 600 066, commencing from **08.07.2025 to 04.08.2025**. After expiry of the ordinary leave, the convict prisoner shall surrender before the Jail Authority on **04.08.2025** before **05.30 P.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.

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

[M.S.R, J.] [V.L.N, J.]  
03.07.2025

Index:Yes

Neutral Citation:Yes

Speaking order

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Note: Issue order copy on 07.07.2025



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To

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**M.S.RAMESH, J.**  
**and**  
**V. LAKSHMINARAYANAN, J.**

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