



WP.No.36888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.36888 of 2024

Periyasamy

... Petitioner

Vs.

1. The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Deputy Inspector General,
Coimbatore Zone,
Coimbatore.
3. The Superintendent of Prison,
Central Prison,
Salem.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent and direct the 3rd respondent to enlarge the petitioner Periyasamy S/o. Palanisamy (Convict Prisoner No.9953) to grant 28 days ordinary leave without escort, confined at Central Prison, Salem.



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For Petitioner : Mr.P.M.Basil
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The writ of mandamus has been intituted to direct the respondents 2 and 3 to grant 28 days ordinary leave to the petitioner/convict prisoner *viz.*, Periyasamy S/o. Palanisamy, bearing Convict No.9953.

2. The prisoner is in actual imprisonment for about 11 years, 4 months and 15 days. The Probation Officer submitted a report stating that the prisoner has not availed any leave on earlier occasion. Therefore, he is unable to ascertain about the conduct of the prisoner outside the prison. Further, the Probation Officer found that the reasons stated are incorrect.

3. Since there is a doubt regarding the reasons, this Court directed the family members of the petitioner/convict prisoner to file an affidavit. The wife of the petitioner/convict prisoner *viz.*, Mrs.P.Santhi and his two



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daughters viz., 1. P.Karthikeyini and 2. P.Sudharsana have filed a joint affidavit stating that the prisoner is the sole breadwinner of the family. The family is unable to meet out even their day to day expenses. The younger daughter of the prisoner has completed her higher secondary course and intends to pursue higher studies. The affidavit states as under:

"4.....the elder daughter, P.Karthikeynini, daughter of Periyasamy, aged about 21 years, is about to get married. As per social customs and traditions, the presence of the petitioner, being the head of the family, is essential to make necessary arrangements, including financial planning, for the marriage.

5. Additionally, the younger daughter, P.Sudharsana, daughter of Periyasamy, aged about 16 years, is currently completing her higher secondary education and intends to pursue higher studies. The financial burden for her education, coupled with basic living expenses, is becoming unmanageable for us.

6. ...we have no external financial or emotional support from relatives or friends. The petitioner's presence is indispensable to help us cope with these challenges and to ensure that the family's needs, including the elder daughter's marriage and the younger daughter's education, are met.

7. We confirm that the petitioner has been of good conduct during his incarceration, as communicated to us by him and his associates in the prison. His temporary release on parole will greatly



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alleviate our current hardships and enable him to fulfill his familial responsibilities.

8. ...we are ready and willing to provide surety for the petitioner for his parole. We assure this Hon'ble Court that we will ensure the petitioner's return to the prison upon completion of the parole period."

4. In view of the affidavit filed by the wife and two daughters of the petitioner/convict prisoner, we are inclined to grant 6 days Emergency Leave, initially. Thereafter, the petitioner/convict prisoner is at liberty to file appropriate petition for grant of ordinary leave.

5. Accordingly, the petitioner/convict prisoner viz., Periyasamy S/o. Palanisamy, bearing convict No.9953 confined at Central Prison, Salem is hereby granted Emergency Leave for 6 days without escort commencing from 11.01.2025, on the following conditions:

i) Respondents are directed to release the petitioner/convict prisoner viz., Periyasamy S/o. Palanisamy, bearing convict No.9953 confined at Central Prison, Salem on Emergency Leave for a period of 6 days without escort commencing from 11.01.2025 to 17.01.2025.



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(ii) The petitioner/Convict Prisoner shall be released on 11.01.2025 at 10.30 A.M. and surrender before the Superintendent, Central Prison, Salem on 17.01.2025 at 10.30 A.M.

(iii) The petitioner/Convict Prisoner shall appear before *Inspector of Police, Anadanapatty Police Station, Salem District* during the period of leave on 15.01.2025 @ 10.30 a.m.

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

6. Accordingly, the writ petition stands **allowed**. No Costs.

[S.M.S., J.] [M.J.R., J.]
08.01.2025

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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1. The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Deputy Inspector General,
Coimbatore Zone,
Coimbatore.
3. The Superintendent of Prison,
Central Prison,
Salem.
4. The Public Prosecutor,
High Court, Madras,
Chennai - 104.



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