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W.P.Crl.No.1476 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

W.P.Crl.No.1476 of 2025

Raghunathan

... Petitioner

Vs.

1.The State represented by its
Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Coimbatore – 641 018.

2.The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore 641 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in No.914/jc2/2025 dated 14.08.2025 passed by the 1st respondent and quash the same and direct the respondents to grant 30 days Ordinary Leave without escort to the petitioner Mr.Raghunathan, S/o.Kuppusamy (PID No.179163) who is confined in 2nd respondent Prison.



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For Petitioner : Mr.M.Mohamed Saifulla
For R1 and R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

(Order of the Court was made by **N. SATHISH KUMAR, J.**)

Challenging the order of the 1st respondent rejecting the request for leave and for a direction to grant 30 days Ordinary Leave to the petitioner and for a direction to grant 30 days Ordinary Leave without escort to the petitioner Mr.Raghunathan, S/o.Kuppusamy (PID No.179163) who is confined in Central Prison at Coimbatore, the present writ petition has been filed.

2.This Bench, in a recent judgment in *Sheefa Rani v. The Secretary to Government of Tamil Nadu, Home Department, Secretariat, Chennai [W.P.(Crl.) Nos.722, 1244, 1167 & 1321 of 2025, dated 19.11.2025]*, has passed the following order :

“31.Therefore, in the above judgment, the Full Bench in Yesu's case has taken a view that, suspension of sentence



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*cannot be granted to a prisoner outside the scope of Suspension of Sentence Rules. Therefore, the judgment of the later Full Bench in **T.Ramalakshmi's case** that the Government can grant leave by exempting the Rules, is otherwise prohibited by **Yesu's case**. Since the later Full Bench decision in **T.Ramalakshmi's case** is contrary to the earlier Full Bench decision in **Yesu's case** and is also running counter to the principle laid down by the Constitution Bench of the Hon'ble Supreme Court in **Nanavati's case**, we are of the view that the issue with regard to the grant of leave under Suspension of Sentence Rules, while exercising the power under Article 226 of the Constitution of India, in pending appeal cases, has to be authoritatively decided by a larger Bench since there are two contrary views of Full Benches of this Court.*

...

*33. Therefore, Registry is directed to place the matter before the Hon'ble Chief Justice with a request to constitute a larger Bench to consider the conflict between the decisions of two Full Benches of this Court in **State v. Yesu** reported in (2011) 5 CTC 353 and **T.Ramalakshmi v. State and others** reported in (2025) 1 LW (Crl.) 310 and to consider the following questions of law :*

i. Whether leave under Tamil Nadu Suspension of Sentence Rules, 1982, can be granted to a prisoner under Article 226 of the Constitution of India, when his appeal against



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conviction is pending either before the Hon'ble Supreme Court or this Court ?

ii. *Whether the power to exempt under Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982 can be exercised by the State to grant leave to a prisoner outside the scope of the said Rules when his appeal against conviction is pending before the Hon'ble Supreme Court or this Court in the light of the decision of the Constitution Bench of the Hon'ble Supreme Court in **K.M.Nanavati v. State of Bombay** reported in **AIR 1961 SC 112** ?*

34. Till such reference is made and answered, Registry is directed not to entertain any application for grant of emergency leave or ordinary leave under Tamil Nadu Suspension of Sentence Rules, 1982, particularly when appeal is pending either before this Court or Supreme Court.”
(emphasis supplied)

3. It is stated in the affidavit filed in support of this petition that an appeal is pending in Crl.A.No.1218 of 2022 before this Court as against the judgment of conviction and sentence passed against the petitioner in Spl.C.C.No.92 of 2019 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore. When the issue with regard to grant of emergency or ordinary leave under Tamil Nadu



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Suspension of Sentence Rules, 1982, to a prisoner, by exercising the powers under Article 226 of the Constitution of India while an appeal against conviction is pending either before the Hon'ble Supreme Court or this Court, has been referred to the larger Bench, this Court is not inclined to grant the relief prayed for by the petitioner, nor to keep this petition pending any further till a decision is made by the larger Bench. At the most, the convict/appellant can only move an application for suspension of sentence before this Court, pending appeal. With this liberty, this writ petition is disposed of. No costs.

(N.S.K., J.) (M.J.R., J.)
27.11.2025

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Internet : Yes

Index : Yes / No

Speaking Order / Nonspeaking order

Neutral Citation : Yes / No

To

1.The Deputy Inspector General of Prison,
Office of Deputy Inspector General of Prison,
Coimbatore Range, Coimbatore – 641 018.

2.The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore 641 018.

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3.The Public Prosecutor,
High Court, Madras.

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