



W.P.Crl.No.1441 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

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Dhavamani Tamilvel

... Petitioner

Vs.

1.The Director General of Police,
Inspector General of Police,
Prisons and Correctional Service,
Egmore, Chennai – 600 008.

2.The Superintendent of Prison,
Central Prison,
Tiruchirapalli, Tamil Nadu.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to grant emergency leave for 10 days for petitioner's husband namely Tamilvel,

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Convict Prisoner – PID No.534913, Central Prison, Trichy.

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For Petitioner : Ms.M.Kruthika
For R1 and R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This writ petition has been filed seeking a direction to the respondents to grant Emergency Leave for 10 days to the petitioner's husband namely Tamilvel, Convict Prisoner – PID No.534913, confined at Central Prison, Trichy.

2.This Bench, in a recent judgment in *Sheefa Rani v. The Secretary to Government of Tamil Nadu, Home Department, Secretariat, Chennai*
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[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 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 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.1010 of 2023 before this Court. When the issue with regard to grant of emergency or ordinary leave under Tamil Nadu Suspension of Sentence Rules, 1982, to a prisoner under Article 226 of the Constitution of India, when his 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. At the most, the convict/appellant can only move an application for suspension of sentence before this Court. With this liberty, this writ



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petition is disposed of. No costs.

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

25.11.2025

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Internet : Yes

Index : Yes / No

Speaking Order / Nonspeaking order

Neutral Citation : Yes / No

To

1.The Director General of Police,
Inspector General of Police,
Prisons and Correctional Service,
Egmore, Chennai – 600 008.

2.The Superintendent of Prison,
Central Prison,
Tiruchirapalli, Tamil Nadu.

3.The Public Prosecutor,
High Court, Madras.



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