



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS JUSTICE R.POORNIMA**

**W.P(MD)No.3608 of 2025
and
W.M.P(MD)No.2553 of 2025**

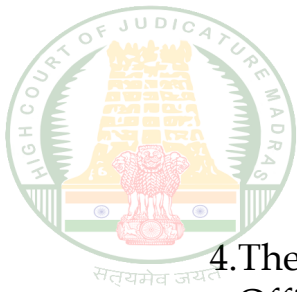
Athilakshmi

... Petitioner/ Wife of the detenu

.Vs.

The State, represented by its,

- 1.The Secretary to Government,
Department of Home,
Fort St.George,
Chennai – 600 009.
- 2.The Deputy Inspector General of Prison,
Madurai Range,
Madurai – 625 001.
- 3.The Superintendent,
Central Prison,
Palayamkottai – 627 007.



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4. The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi – 628 101. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order bearing No.463/Vu.Tha.2/2024, dated 22.08.2024 passed by the second respondent and to quash the same and consequently to direct the second respondent to grant ordinary leave for thirty days without escort to Murugesan @ Shanmuga Sundaram, son of Gunasekara Pandian, aged about 46 years, bearing Convict No. 4871, confined at Central Prison, Palayamkottai.

For Petitioner : Mr.S.Manoharan

For R1 to R4 : Mr.A.Thiruvadi Kumar
Addl.Public Prosecutor

ORDER

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The Writ Petition is filed seeking issuance of a Writ of

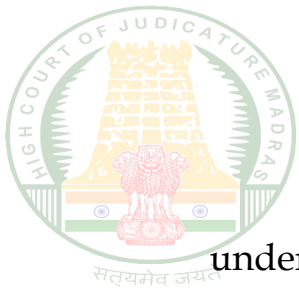


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Certiorarified Mandamus calling for the records pertaining to the impugned order bearing No.463/Vu.Tha.2/2024, dated 22.08.2024 passed by the second respondent and to quash the same and consequently to direct the second respondent to grant ordinary leave for thirty days without escort to Murugesan @ Shanmuga Sundaram, son of Gunasekara Pandian, aged about 46 years, bearing Convict No.4871, confined at Central Prison, Palayamkottai.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Writ Petitioner is the wife of Murugesan @ Shanmuga Sundaram, a life convict, presently confined at Central Prison, Palayamkottai. The representation by the Petitioner to grant ordinary leave for thirty days without escort to her husband, was rejected by the second respondent, vide order, dated 22.08.2024. Being aggrieved, the present Writ Petition is filed stating that



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under Rule 22 of the Tamil Nadu Suspension of Sentence Rules, 1982, the detenu is entitled for ordinary leave, since he has completed three years of sentence. Therefore, while the detenu is fully eligible to avail ordinary leave under the abovesaid Rules, the rejection of the representation is liable to be quashed. Further, the learned counsel appearing for the Petitioner submitted that the other ground for rejection of the request for ordinary leave is the pendency of the Special Leave Petition filed by the detenu before the Honourable Supreme Court and this reason is no more available for the Government to reject the application for ordinary leave in view of the Full Bench Judgment of this Court of the Madras High Court in *Ramalakshmi .vs. The State, represented by the Principal Secretary to Government of Tamil Nadu, Home Department, Fort St.George, Chennai and two others* made in *W.P(MD)No.9491 of 2024, dated 24.01.2025*.

4.The learned Additional Public Prosecutor appearing for the respondents/State submitted that the husband of the



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Petitioner was acquitted by the trial Court vide order, dated 1.9.2009. On appeal by the State against the order of acquittal, he was found guilty vide judgment dated 7.12.2021 Being aggrieved, the detenu has preferred a Special Leave Petition before the Honourable Supreme Court and the same is pending. That apart, after the judgment of conviction, the detenu was secured only on 23.3.2022 and on the date of his representation, only 2 years 4 months and 14 days of imprisonment was undergone by the Petitioner's husband and hence, he was not eligible for grant of ordinary leave. Therefore, he would submit that the order of rejection of application for grant of ordinary leave is perfectly valid. At the same time, the learned Additional Public Prosecutor also submitted that the pendency of the Special Leave Petition cannot be a ground for rejection of ordinary leave application and the representation was rejected in view of the Division Bench Judgment of the High Court as cited supra and also after considering the Tamil Nadu Suspension of Sentence Rules.



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5. Considering the above facts, this Court finds that on the date of application, the detenu has not completed three years period of imprisonment to take advantage of Rule 22 of the above Rules for availing ordinary leave. Therefore, the order of rejection is sustainable on that sole ground. Once the detenu completes the three years period of imprisonment, he is eligible to seek ordinary leave and if any such representation for ordinary leave is submitted after completion of three years of imprisonment, the authorities shall consider the same without citing the pendency of appeal, since it is no more a ground to reject the grant of ordinary leave as per the decision of the Full Bench of this Court cited supra.

6. Accordingly, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed.

[G.J.,J.] [R.P.,J.]

12.03.2025



NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

- 1.The Secretary to Government,
Department of Home,
Fort St.George,
Chennai – 600 009.
- 2.The Deputy Inspector General of Prison,
Madurai Range,
Madurai – 625 001.
- 3.The Superintendent,
Central Prison,
Palayamkottai – 627 007.
- 4.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi – 628 101.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA, J.

vsn

ORDER MADE IN

W.P(MD)No.3608 of 2025
and
W.M.P(MD)No.2553 of 2025

12.03.2025