



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.04.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

W.P.(MD)No.8563 of 2025

Mohammed Hakkim

... Petitioner

-Vs-

1. The State Represented by
The Principal Secretary to Government,
Home, Prohibition & Excise (Prison-IV) Department,
Fort St. George,
Chennai - 600 009.
2. The Director General of Prisons and Correctional Services,
Office of the Tamil Nadu Prisons Headquarters,
Whannels Road, Egmore,
Chennai - 600 008.
3. The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy - 620 023.
4. The Superintendent of Prisons,
Central Prison,
Trichy - 620 020.



WEB COPY

5. The Commissioner of Police,
City Police Office,
Pudukkottai Main Road,
Trichy – 620020.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a ***Writ of Certiorarified Mandamus***, calling for the records relating to the Impugned Order passed by the 3rd respondent vide his proceedings in No.59/Mu Vu/2025, dated 31.01.2025 and quash the same as illegal and void, consequently grant 28 days ordinary leave without police escort to the petitioner Mohammed Hakkim, S/o.Settu, Convict Prisoner No.20980, now confined at Central Prison, Trichy, forthwith considering the representation, dated 20.07.2024.

For Petitioner : Mr.C.Karthikeyan

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The petitioner herein is a life convict, confined at Central Prison, Trichy. By Judgment dated 30.05.2015, the Trial Court convicted him for offence under Sections 302, and 392 read with 397 of IPC. He was sentenced to undergo life imprisonment and fine of Rs.1,000/-, in default to undergo 6 months rigorous



WEB COPY

imprisonment for the offence under Section 302 of IPC, and sentenced to undergo seven years imprisonment and fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment for the offence under Section 392 read with 397 of IPC.

2. Aggrieved by the said sentence and conviction he has preferred an appeal in CrI.A.(MD)No.18 of 2016 before this Court and the same was dismissed on 03.11.2016, the conviction and sentence imposed by the Trial Court was confirmed. His further appeal before the Hon'ble Supreme Court in S.L.P. No.10580 of 2023 is pending.

3. After serving a sentence of more than ten years, he sought 28 days of ordinary leave, vide a representation dated 20.07.2024. However, the said representation was rejected by the prison authorities, citing Rule 21(b) of the Prisoners' Manual, which prohibits granting leave to a convict whose appeal is pending. Further, a person convicted under Section 392 read with Section 397 of the IPC is not entitled for ordinary leave. Being aggrieved by the said rejection order, the present Writ Petition has been filed, stating that during the past ten years of confinement, the petitioner was granted leave on more than 20 occasions



WEB COPY

and had availed of the leave and reported back in compliance with the Leave Orders.

4. The Hon'ble Full Bench of this Court, in its judgment dated **24.01.2025** in the case of ***T. Ramalakshmi vs. The State***, in ***W.P.(MD) Nos. 9491 of 2024 and its batch***, clarified that the pendency of an appeal cannot be a bar for the authorities to grant ordinary leave if the convict is otherwise entitled. Furthermore, Rule 40 of the Suspension of Sentence Rules, 1982, empowers the authorities to consider requests for leave in appropriate cases, notwithstanding anything contained in the other provisions of the Jail Manual. With regard to the reference to conviction under Section 392 read with Section 397 of the IPC, the Learned Counsel for the petitioner submits that there cannot be an absolute bar on granting ordinary leave to a convict who has been convicted under Section 392 read with Section 397 of the IPC, along with a conviction for an offence under Section 302 of the IPC.

5. According to the Learned Counsel, the sentence imposed on the writ petitioner for the offence under Section 392 read with Section 397 of the IPC



WEB COPY

was seven years, and the same was directed to run concurrently with the life imprisonment imposed under Section 302 of the IPC. Since the convict has already completed ten years of imprisonment, the seven years sentence imposed for the offence under Section 392 read with Section 397 of the IPC stands completed. Therefore, he cannot be denied ordinary leave, as he is now undergoing sentence only for the offence under Section 302 of the IPC. This Court is in full agreement with the submission made by the learned counsel for the writ petitioner.

6. Rule 21(b) of the Tamil Nadu Suspension of Sentence Rules, 1982, enumerates categories of prisoners who are not eligible for ordinary leave. It states that prisoners sentenced under Sections 392 to 402 of the IPC are not eligible for ordinary leave. No doubt, in the present case, the petitioner was sentenced for the offence under Section 392 read with Section 397 of the IPC. However, the embargo on granting ordinary leave applies only during the period of the sentence imposed for offences under Sections 392 to 402 of the IPC, and not beyond that. Hence, the petitioner's application for the grant of ordinary leave cannot be rejected either on the ground that he has preferred an appeal or on the



WEB COPY

basis of his conviction under Section 392 read with Section 397 of the IPC.

Therefore, the impugned order passed by the respondents is liable to be quashed.

7. Accordingly, the impugned order passed by the third respondent, vide proceedings No. 59/Mu Vu/2025 dated 31.01.2025, is hereby quashed. The respondents are directed to consider the representation of the writ petitioner afresh and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order, in accordance with the judgment rendered by the Hon'ble Full Bench of this Court in *Ramalakshmi's case* and the clarification issued by this Court.

8. With these observations, this Writ Petition is disposed off. No Costs.

[G.J., J.] & [R.P., J.]
21.04.2025

NCC : Yes / No
Index : Yes / No
KSA



WEB COPY

To

1. The Principal Secretary to Government,
Home, Prohibition & Excise (Prison-IV) Department,
Fort St. George,
Chennai - 600 009.
2. The Director General of Prisons and Correctional Services,
Office of the Tamil Nadu Prisons Headquarters,
Whannels Road,
Egmore,
Chennai - 600 008.
3. The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy - 620 023.
4. The Superintendent of Prisons,
Central Prison,
Trichy - 620 020.
5. The Commissioner of Police,
City Police Office,
Pudukkottai Main Road,
Trichy – 620020.



WEB COPY



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

KSA

W.P.(MD)No. 8563 of 2025

21.04.2025