



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP CrI. No. 616 of 2026

AND

WPMP CRL. NO. 196 OF 2026

Munvar Basha
S/o.Mahabub Basha,
Pid No.240371,
Convict Prisoner,
Central Prison-1,
Puzhal,
Chennai-600 066.

..Petitioner(s)

Vs

1. The Director General of Police and
Director General of Prisons,
Correctional service
Whannels Road,
Egmore,
Chennai-600 008.
2. The Superintendent of Prison,
Central Prison-1,
Puzhal,
Chennai-600 066.

..Respondent(s)

Prayer: Writ petition filed under Article 226 of Constitution of India for
issuance of Writ of CERTIORARIFIED MANDAMUS calling for the records



in the order no.1018/mu.uu.1/2025 dated 30.12.2025 passed by respondent No.2 and quashing the same, and directing the respondents to grant ordinary leave for 28 days by without escort for the petitioner's husband namely Munavar Basha S/o.Mehabub Basha, aged 43 years, convict Prisoner, Pid No.240371, Central Prison-1, Puzhal, Chennai-66.

For Petitioner(s): Ms.S.Nadhiya

For Respondent(s): Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted By
Mr. M. Sylvester John

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

The petitioner was convicted on 14.02.2020 in C.C.No.83 of 2017 by the II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai and sentenced to undergo 10 years rigorous imprisonment. As on date, he has completed 8 years 9 months and 29 days in jail, including period of incarceration during trial. According to him, he is suffering from serious kidney ailments and is undergoing dialysis. He has chronicled other medical ailments in the affidavit filed in support of this Writ Petition.

2. Having regard to the same, he has been making representations seeking grant of ordinary leave of 28 days and had challenged the rejection of



his representation in W.P.(CrI.)No.1618 of 2025. which came to be dismissed as withdrawn on 16.12.2025.

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3. On the heels of the aforesaid rejection, he has made another representation on 20.12.2025, which has also been dismissed by way of impugned order dated 30.12.2025, assailing which, the present Writ Petition has been filed.

4. We have heard Ms.S.Nadhiya, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned Advocate, who accepts notice for the respondents and has instructions enabling this Court to dispose this Writ Petition finally, even at the stage of admission, by consent expressed by both parties.

5. The facts are not in dispute. The petitioner has been convicted under the NDPS Act for holding 750 kgs of Ganja, being commercial quantity. As learned Additional Public Prosecutor rightly says, Rule 21 of the Tamil Nadu Suspension of Sentence Rules, 1982 (in short 'Rules') sets out various conditions for non-eligibility of ordinary leave, and Rule 21(h) renders those persons convicted for heinous offences including '*smuggling of commercial quantity of narcotic and psychotropic substances*' ineligible for ordinary leave.

6. We cannot, hence, fault the respondents in rejecting the request for ordinary leave citing the aforesaid Rule. However, there are two aspects that

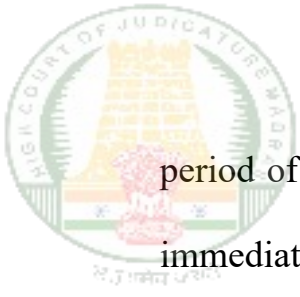


have been lost sight of by the authorities. Firstly, Rule 21 applies only to ordinary leave and does not lay any embargo upon a convict from seeking, or upon the authority from considering the same. It is hence open to the authority to have considered the representation made by the petitioner as one for emergency leave, particularly in light of the debilitating medical conditions set forth by the petitioner.

7. Secondly, Rule 40 vests power in the Government to '*exempt any person from all or any of the provisions of these Rules*'. Hence, even in a case where Rule 21 is attracted, the Government can still proceed to exercise power under Rule 40 to exempt any person from the application of Rule 21, citing appropriate reasons and justifying the exercise of such exemption.

8. In light of the aforesaid, we are of the considered view that the authorities must re-consider the representation of the petitioner dated 20.12.2025 and pass orders afresh having regard to the observations made in this order. We however make it clear that our observations are limited only to the aspect of jurisdiction of the authorities and the decision as regards the petitioner's eligibility for leave, on merits, is left to the consideration of the authorities.

9. The impugned order dated 30.12.2025 is set aside and R2 is directed to re-consider the representation dated 20.12.2025 in accordance with law, having particular regard to Rule 6 and Rule 40 of the Rules, and pass orders, within a



period of one (1) week from today and communicate the same to the petitioner immediately.

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10. This Writ Petition is disposed in terms of this order. Connected Miscellaneous Petition is closed.

(A.S.M.,J.) (S.M.,J.)

23-03-2026

sl

Index: Yes/No

Speaking order

Neutral Citation: Yes

To

1. The Director General of Police and
Director General of Prisons,
Correctional service
Whannels Road,
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Chennai-600 008.
2. The Superintendent of Prison,
Central Prison-1,
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3. The Public Prosecutor, High Court of Madras.



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WP Crl. No. 616 of 2



DR.ANITA SUMANTH J.

AND

SUNDER MOHAN J.

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