



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP CrI. No. 895 of 2026

AND

WPMP CRL. NO. 296 OF 2026

Chinnathambi
S/o.Aiyannar,
Salem Central Prison,
Salem - 636 007.

..Petitioner(s)

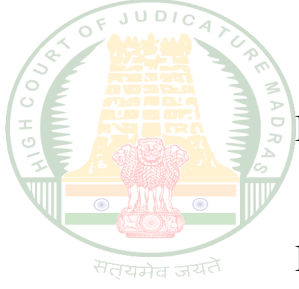
Vs

1. The Director Inspector General of Prison,
Coimbatore Range,
Coimbatore Central Prison,
Coimbatore - 641 018.

2. The Superintendent,
Salem Central Prison,
Salem - 636 007.

..Respondent(s)

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the Impugned Order bearing No.28021/ta.ku-3/2024 dated 26.08.2025, passed by the 2nd respondent and quash the same and consecutively direct the 2nd respondent to consider petitioner's representation and grant ordinary leave for 40 days without escort to the detenu, Chinnathambi, S/o Aiyannar, aged about 53 years, Convict No.3083, detained at Central Prison, Salem.



WEB COPY

For Petitioner(s):

Mr.Mohamed Saifulla
for M/s.P.Bakiyaraj

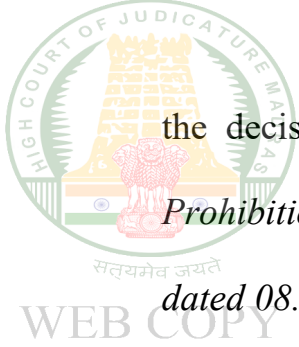
For Respondent(s):

Mr.C.R.Malarvannan,
Counsel For Government Of Tamil Nadu
(Criminal Side)ORDER*(Made by Dr.Anita Sumanth, J.)*

The petitioner is a convict, convicted and sentenced by a judgment dated 04.01.2025 and admitted in Central Prison, Trichy on the aforesaid date. He had made an application seeking leave of 40 days without escort and that application has come to be rejected by way of the impugned order dated 26.08.2025. Aggrieved, petitioner is before us, by way of the present writ petition.

2. Mr.Mohamed Saifulla, learned counsel, who appears for the petitioner argues that the impugned order has not taken note of the fact that the petitioner has been granted Emergency Leave on several occasions. Moreover, reference to Section 224 IPC is misplaced as the petitioner had absconded for a period of three months in the year 2005 and his conduct has been good thereafter. He relies, for this argument, on Circular dated 15.12.2017 bearing No.26594/PS.4/2017. As per this Circular, the period for which the convict had absconded must be within the last five years preceding the date of commencement of leave and hence the impugned order has to be set aside.

3. Another ground raised by Mr.Saifulla relates to lack of jurisdiction on the part of the Superintendent of Prison to pass the impugned order. Referring to



the decision in *Dhanalakshmi v Principal Secretary to Government, Home, Prohibition and Excise (Prison – IV) and Ors [W.P.(MD) No.20720 of 2023 dated 08.09.2023]*, the learned counsel would argue that it is only the DIG, who is vested with the authority to consider the grant of leave. He specifically relies on paragraphs 3.2 and 4 of the aforesaid decision.

4. Mr.Malarvannan, learned counsel for Government of Tamil Nadu (Criminal Side), for his part, would draw attention to Rule 21 of the Tamil Nadu Suspension of Sentence Rules, 1982 ('Rules'), wherein Sub-Rule (i) places a bar in respect of grant of leave to prisoners, who may not report back to the prison after completion of the leave period. The fact of the matter is that the convict had absconded for three months and it is with great difficulty that he had been secured and taken back to prison, and this would constitute circumstances that would enure to the detriment of the convict. The invoking of Section 224 IPC read with Rule 21(i) of the Rules and consequent rejection of leave is thus perfectly in order.

5. We have heard both learned counsel and perused the material papers as well as the case law cited.

6. The date of conviction of the convict is not in dispute. Neither is the period for which the convict has absconded, between 22.05.2005 and 10.08.2005. Mr.Malarvannan, would also accede to the position that convict has has been granted emergency leave on several occasions without escort, till recently. The impugned order proceeds on the basis on the bar of Section 224



in rejecting the grant of leave for 40 days.

7. On the question of applicability of Section 224, we are of the considered view that the same would not be a bar in the present case. Circular No.26594/PS.4/2017 reads as follows:-

No.26594/PS.4/2017

O/o. Additional Director General of
Police/Inspector General of Prisons,
Chennai – 8.

Dated : 15.12.2017

*Sub : Prisons – Granting of leave to prisoners – instructions issued
– Regarding.*

Ref : This office memo No. 26594/PS4/2017, dated – 13.10.2017

In this office memo cited, instructions have ben issued not to grant any sort of leave to those prisoners who were absent on leave previously and facing / faced case u/s 224 IPC.

2. In this connection, it is informed that during the course of meeting of Additional Director General of Police / Inspector General of Prisons with the Range Deputy Inspector General of Prisons and Superintendent of Prisons held on 11.12.2017, the matter was discussed in detail. All the Range Deputy Inspector General of Prisons and Superintendent of Prisons are instructed not to grant any sort of leave to the prisoner who were absent on leave previously and facing / faced case u/s 224 IPC in the past 5 years preceeding the date of commencement of leave.

Sd/-

*Addl. Director General of Police
/Inspector General of Prisons.*

8. It is true that Rule 21(i) states that ‘prisoners who may not report back to the prison after completion of leave period’ are not eligible for the grant of ordinary leave. That rule, inserted vide G.O.205 dated 25.04.2022 is couched in wide terms and includes various circumstances where the authorities apprehend that the convict may abscond. The circumstance that have been placed against the convict relate to his absconding for three months in 2005. However, taking



WEB COPY

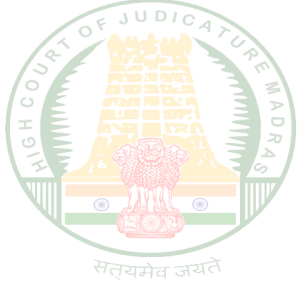
note of the position that there is nothing untoward noted in his conduct thereafter and the authorities have themselves granted emergency leave without escort on several occasions, we do not see any necessity for the authorities to invoke Rule 21(i) now. Perhaps, the invocation is on account of the duration of leave being longer now, as the convict has sought leave of 40 days.

9. In our view, the 2017 Circular does not get effaced or whittled down by insertion of clause (I) in 2022 to Rule 21. Needless to say, it is ultimately the discretion of the authorities that would prevail as to whether the convict may abscond or may not report back to prison after completion of leave. However, in order to pursue that line of action, the authorities must have some material to show that such a danger persists.

10. In this case, there is nothing on record, except the fact that the petitioner absconded for three months in 2005, which is more than 20 years ago. In the aforesaid circumstances and in the absence of any material whatsoever to indicate such a looming threat now, we are of the considered view that there is no justification for the reason set out in the impugned order.

11. On the ground relating to assumption of jurisdiction by the Superintendent of Prisons, we had directed the authorities to clarify the position in regard to proper authority to exercise jurisdiction and by affidavit dated 16.06.2026, the following explanations has been tendered:-

“3. I submit that previously as an usual practice, whenever the petitions for ordinary leave are received, they will be scrutinized at the first level authority regarding to the eligibility



WEB COPY

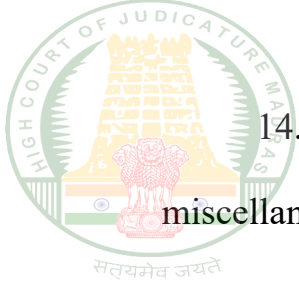
criteria. It is only after the convict was found to be eligible for leave, it will go through the process of obtaining probationary officer reports and finally the order granting leave would be signed by the Deputy Inspector General of Prison. But in cases where the petition does not pass the criteria of eligibility, they will be rejected on that score by the Superintendent of Prison himself, to avoid the further delay in considering the other eligible applications.

4. I further submit that however this system is no longer in existence in view of the instructions issued by the DGP memo No.5924/PS4/2025, Dated 24.11.2025. In this memo, states that “no final decision should be taken at the level of the Superintendent of Central Prison and forwarded the ordinary leave applications to the Deputy Inspector General (DIG) of Prisons, a formal rejection in case of ineligibility must come only from the Range Deputy Inspector General (DIG) of Prisons.

5. Accordingly, it is humbly submitted that, the proposals regarding the applications of prisoners who are currently ineligible for ordinary leave are being submitted to the Deputy Inspector General of Prisons, and such applications are subsequently being scrutinized and rejected by the Deputy Inspector General of Prisons.”

12. The impugned order has been passed by the Superintendent of Prisons and hence in light of the explanations tendered above, is clearly bereft of jurisdiction.

13. Hence and taking note of the observations made in this order, we direct the proper authority to pass orders forthwith, granting 21 days leave to the convict without escort, commencing from 19.06.2026 till 10.07.2026. The prison authorities shall release the convict at 10.30 am on 19.06.2026 and he shall return at 10.00 am on 10.07.2026. During the leave period, the convict is directed to report daily at 10.30 am in the Tholasampatti Police Station.



14. The writ petition stands allowed in above terms. No costs. Connected miscellaneous petition is closed.

WEB COPY

(A.S.M.,J.) (S.M.,J.)
17-06-2026

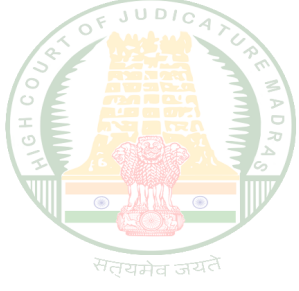
Index: Yes/No
Speaking order
Neutral Citation: Yes

ssm

Note to Registry : Issue order copy on or before 18.06.2026.

To

1. The Director Inspector General of Prison,
Coimbatore Range,
Coimbatore Central Prison,
Coimbatore - 641 018.
2. The Superintendent,
Salem Central Prison,
Salem - 636 007.
3. The Inspector of Police, Tholasampatti Police
Station, Omalur, Salem.
4. The Public Prosecutor, High Court, Madras.



WEB COPY

WP Crl. No. 895 of 2



DR.ANITA SUMANTH J.
AND
SUNDER MOHAN J.

ssm

WP Crl. No. 895 of 2026
AND
WPMP CRL. NO. 296 OF 2026

17-06-2026