



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP CrI. No. 1225 of 2026

AND

WPMP CRL. NO. 407 OF 2026

Karpagam
W/o. Muniyandi,
Residing at No. 71,
Mallipoo Colony,
5th Cross Street,
Vyasarpadi,
Chennai 600 039.

..Petitioner(s)

Vs

1. The Deputy Inspector General of Prisons,
Chennai Range,
Prison Head Quarters,
Whannels Road,
Egmore, Chennai 600008.
2. The Superintendent of Prisons
Central Prison -I,
Puzhal,
Chennai - 600 066.

..Respondent(s)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order dated bearing No.CP-PU1/1815/2026-R2 dated 20.05.2026 passed by the respondent No.2 and quashing the same and consequently directing the respondents to grant



6 days emergency leave for petitioner's son namely Arunkumar aged 29 years S/o. Muniyandi, PID No. 69341, Convict Prisoner, Central Prison -I, Puzhal and thus render justice.

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For Petitioner(s): Ms.S.Nadhiya

For Respondent(s): Mr.C.R.Malarvannan
Counsel for Government of Tamil Nadu
(Criminal Side)

ORDER

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

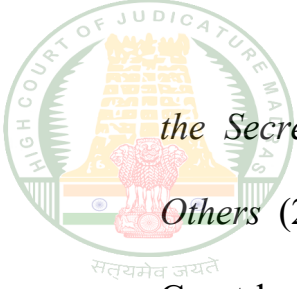
This habeas corpus petition has been filed by the mother of detenu seeking 6 days emergency leave to her son, who is a life convict and presently lodged in Central Prison I, Puzhal, Chennai.

2.We have heard learned counsel for petitioner and learned counsel for the Government of Tamil Nadu (Criminal Side).

3.The case of the petitioner is that the convict's father is seriously ill and the reasons cited in the impugned order for rejecting request for Emergency Leave is Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982, as per which, no convict, who has pending cases can be granted leave.

4.Mr.Malarvannan also notes Rule 40 which grants the authorities power to exempt. In such circumstances, he is agreeable to having the authorities re-look into the representation of the petitioner, particularly, since the medical ailments of the convict's father are supported by medical report.

5.Mr.Malarvannan, relies on the decision in *Bhuvaneshwari v. State by*



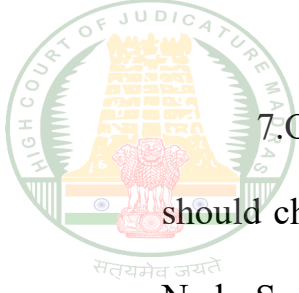
the Secretary to Government Home, Prohibition & Excise Department and Others (2021 SCC OnLine Mad 2721), wherein the Division Bench of this

Court had occasion to consider Rule 40. His argument is that Rule 40 may not be applicable, for which purpose he relies on the observations of this Court in the aforesaid case. We do not agree.

6. In that case too ordinary leave had been refused to a convict, who had approached this Court. The application of Rule 40 was discussed and in that context, the Division Bench states as follows:

'8.Mrs.Nadhiya submitted that Rule 40 of the Sentence Suspension Rules gives the power to the Government to exempt any person from all or any of the provisions of the Rules and therefore, the Government should have invoked this power and granted ordinary leave to Mohan (Ct. No.6965) by taking into consideration the health condition of his daughter. We are unable to countenance this submission. Rule 3, ibid., clearly states that leave cannot be claimed as a matter of right and that it is only a concession granted to the prisoner. Therefore, rule 40, ibid., relied on by the learned counsel for the petitioner, should have to be read conjunctively with Rule 3, ibid., and not disjunctively to Mohan's advantage.

9. At this juncture, it is felicitous to refer to the judgment of a Full Bench of this Court in State v. Yesu, wherein, the contours of Rule 40, ibid., have been discussed and it has been held that if a prisoner is exempted by the Government from the provisions of the Sentence Suspension Rules in toto, then, the Government cannot grant suspension at all. In other words, if a prisoner wants to avail of leave, be it emergency or ordinary, it can be only within the four walls of the Sentence Suspension Rules and not beyond it. Rule 40, ibid., merely gives the Government the power to exempt and does not give the consequential power to the Government to grant leave beyond the limitations prescribed by the Sentence Suspension Rules.'



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7. Our understanding of the aforesaid discussion is that if the Government should choose to exempt a specific convict from the applicability of the Tamil Nadu Suspension of Sentence Rules, 1982, '**in toto**' as has been stated by the Bench in that case, then the question of seeking and availing leave does not arise as there is no other enabling provision/ rule/ guideline under which leave may be sought.

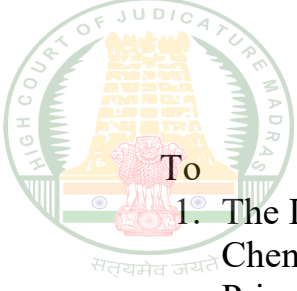
8. However, in light of Rule 40 enabling the Government for exemption from all '**or any**' of the provisions of the Rules, it is perfectly plausible and possible for the Government, on the recommendation of the State, to exempt the convict from the application of a particular Rule, in this case, Rule 35.

9. Let a decision be taken by the authorities in this regard within two (2) weeks from date of uploading of this order and if the authorities are inclined to recommend the case of the petitioner for exemption under Rule 35 with escort, at State cost, the same may be forwarded to the Government for exercise of power under Rule 40.

10. With this, this writ petition is closed. No costs. Connected miscellaneous petition is also closed.

(A.S.M.,J.) (S.M.,J.)
03-06-2026

Index: Yes/No
Speaking order
Neutral Citation: Yes
vs



To

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2. The Superintendent of Prisons
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