



WP CrI. No. 1231 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP CrI. No. 1231 of 2026

T.Blessita
W/o.Thiyagarajan,
No. 399/2D/2,
6th Street, Lions Town,
South Garden Road,
Tuticorin 628 001.

..Petitioner(s)

Vs

1. The Home Secretary
Home Department (Prison),
Secretariat, Fort St.George,
Chennai 600 009.
2. The Deputy Inspector General of Prison
Chennai Range, Chennai.
3. 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 relating to the proceedings in No. CP-PU1/1833/2026-R2 dt. 15.05.2026 by the 3rd respondent and quash the same and consequently direct the 3rd respondent to grant 15 days emergency leave without escort to the



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petitioner's husband Thiagarajan S/o. Murugesan, aged 44 years (PID 239015), confined at Central Prison I, Puzhal, Chennai.

For Petitioner(s): Mr.Nagarjuna
for M/s.R.Bakiyalakshmi

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

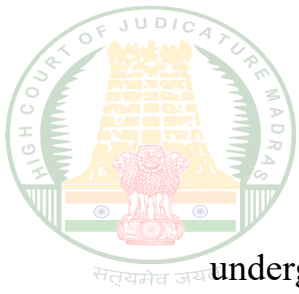
ORDER

(Order of the Court was made by Sunder Mohan J.)

This Habeas Corpus Petition has been filed by the wife of detenu seeking 15 days emergency leave to her husband, 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 prisoner's minor daughter is suffering from severe intestinal and nerve-related complication, for which doctors have advised to undergo immediate surgery; that the petitioner is a person with disability suffering from right-hand physical impairment and is a Breast Cancer survivor, having



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undergone surgery to remove her right breast; that she is under continuous medical treatment and medication, resulting in enormous medical expenses; that she is unable to engage in any employment; that her son also is under psychiatric treatment due to prolonged separation from his father; that therefore, she require the support of her husband; and that 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 daughter 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



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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



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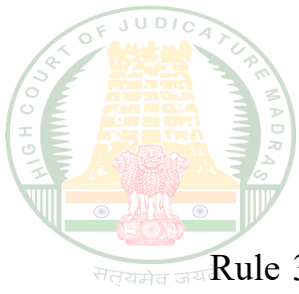
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emergency or ordinary, it can be only within the four walls of the Sentence Suspension Rules and not beyond it. Rule 40, ibid., merely gives the Government the power to exempt and does not give the consequential power to the Government to grant leave beyond the limitations prescribed by the Sentence Suspension Rules.'

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. Hence, the authorities concerned are directed to consider the request of the petitioner in light of Rule 40 and consider exemption of



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Rule 35 for the convict, if a case has been made out for such exemption and pass orders within a period of two weeks from the date of receipt of a copy of this order.

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/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Home Secretary
Home Department (Prison),
Secretariat, Fort St. George,
Chennai 600 009.
2. The Deputy Inspector General of Prison
Chennai Range, Chennai.
3. The Superintendent of Prisons
Central Prison-I, Puzhal,
Chennai -600 066.
4. The Public Prosecutor,
High Court, Madras.



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