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W.P CrI(MD)No.1774 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

W.P CRL(MD)No.1774 of 2026

and

W.M.P CRL(MD)No.434 of 2026

Prema

... Petitioner

Vs.

1.The Home Secretary,
Home Department (Prison),
Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Deputy Inspector General of Prisons,
Madurai Range,
Madurai - 625 001.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai – 627 007.

4.The Inspector of Police,
Rajakamangalam Police Station,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in No.234/Utha.2/2026 issued by the second



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respondent dated 09.03.2026 quash the same and consequently direct the 3rd respondent to grant 20 days ordinary leave without escort to the petitioner's brother Gopi @ Sahagaya Burono, S/o.Francis, aged 55, PID No.18061, presently confined at Central Prison, Palayamkottai.

For Petitioner : Mr.P.M.Basil

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

ORDER

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner's brother, Gopi @ Sahaya Burono, is undergoing life sentence in Central Prison, Palayamkottai. He has so far spent 17 years in prison. He is entitled to 40 days' ordinary leave. The convict sought leave without escort. His request was rejected vide order dated 09.03.2026 by the second respondent. Challenging the same, this writ petition has been filed.

3.It is not in dispute that the convict was given 20 days' ordinary leave from 24.12.2024 to 12.01.2025 and again from 24.05.2025 till 14.06.2025. The DIG of Prisons, Madurai Range invoked Rule 22(3) of the Tamil Nadu Suspension of Sentence Rules, 1982 and rejected the



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request. According to the second respondent, the request of the convict is liable to be rejected as he has not completed one year of imprisonment from the date on which he returned from the last ordinary leave. Sub-rule (3) of Rule 22 is as follows :

“(3) The prisoner shall be granted the second or subsequent spell of ordinary leave not exceeding the period mentioned in sub rule (2) above, after the completion of one year of imprisonment from the date on which he returns from the last ordinary leave.”

In our view, the second part of the above sub-rule is unambiguous. The petitioner’s counsel is unable to fault the stand taken by the second respondent. We sustain the impugned order. However, the case on hand falls within Rule 6 which provides for grant of emergency leave in case of serious illness of one’s mother. The petitioner had averred in her affidavit that their mother is seriously ill and hence the convict has to be with her. Hence, we direct the third respondent to grant emergency leave to the convict Gopi @ Sahaya Burono.

4.However, we have to express our surprise as to how ordinary leave was granted to the convict from 24.05.2025 till 14.06.2025. In the impugned order, there is a reference to WP(MD)CrI. No.30516 of 2024. Incidentally, it is by this very bench. But the order is dated 19.12.2024 and pertains to grant of leave from 23.12.2024 till 13.01.2025. The



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reference given in the impugned order is wrong and we would call upon the DIG, Prisons, Madurai Range to be careful while drafting his proceedings. Any reference found in an official order must be factually accurate. Opinions may be wrong, views may turn out to be incorrect. But there cannot be any laxity when citing facts. When sub-rule (3) of Rule 22 makes it clear that there has to be a one year gap between two spells of ordinary leave, we fail to understand as to how the prisoner could have been granted ordinary leave from 24.05.2025 when he had returned from his previous spell of ordinary leave on 13.01.2025. This is a matter that has to be explained by the office of the second respondent. Let a copy of this order be marked to the first respondent.

5.Rule 22(1) and (2) are as follows :

“22. Eligibility for ordinary leave.- (1) No prisoner shall be granted ordinary leave unless he has been sentenced by a court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed.-

(a) one year of imprisonment in cases of prisoners sentenced to imprisonment for a period not exceeding five years;

(b) two years of imprisonment in cases of prisoners sentenced to imprisonment for a period exceeding five years but not more than fourteen years;



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(c) three years of imprisonment in cases of prisoners sentenced to imprisonment for a period exceeding fourteen years and for life. Explanation.- The period of actual imprisonment shall be counted from the date of admission to prison as convict.

(2) The ordinary leave shall not exceed the period as specified below at a time, unless extended by the Government:-

(a) twenty one days for the prisoners sentenced to imprisonment for a period not exceeding five years;

(b) twenty one days from the third to fifth years of imprisonment and not exceeding twenty eight days during the rest of the term of imprisonment for the prisoners sentenced to imprisonment for a period exceeding five years but not more than fourteen years;

(c) twenty one days during the fourth and fifth years of imprisonment; not exceeding twenty eight days from the sixth year of imprisonment to fourteenth year of imprisonment and not exceeding forty days during the rest of the term for prisoners sentenced to imprisonment for life and those sentenced exceeding fourteen years: Provided that the maximum period of forty days of ordinary leave may be availed in one spell or in two spells of any duration.”

Rule 22 cannot be read in isolation. Rule 3 makes it clear that leave cannot be claimed as a matter of right and that it is a concession granted to the prisoner. Leave is of two kinds, namely, emergency leave



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and ordinary leave. Both for availing emergency leave as well as ordinary leave, grounds have to be made out. Rule 6 talks about grounds for grant of emergency leave. Rule 22 talks about the grounds for grant of ordinary leave. Rule 13 prescribes the maximum period of emergency leave as fifteen days in a year to be spread over four spells, subject to the maximum of six days in any one spell and the remaining nine days in three spells each not exceeding three days at a time. Rule 22 (2) does not state that the period of ordinary leave fixed therein is for a given year. When emergency leave can be given for maximum fifteen days in a year but the expression “in a year” is absent in Rule 22(2), the inference has to be that what has been prescribed is not per year but for the overall period of imprisonment. Some confusion does crop up on account of the employment of the word “at a time”. But on a holistic reading of the entire Rule 22 in the backdrop of the statutory scheme, it appeared that a prisoner sentenced to imprisonment for a period not exceeding five years can avail a maximum of 21 days ordinary leave during his entire incarceration. He will become eligible for availing ordinary leave after completing one year of imprisonment. A prisoner sentenced to more than five years but not more than fourteen years will be eligible for ordinary leave on completion of two years of imprisonment. He can avail 21 days ordinary leave from the third to fifth year of imprisonment. He can avail 28 days during the rest of the term



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of imprisonment up to fourteen years. In other words, it appeared that such a prisoner can avail a maximum of 49 days. A prisoner sentenced to imprisonment for a period exceeding fourteen years and for life, can avail ordinary leave on completion of three years of imprisonment. He can get 21 days ordinary leave during the fourth and fifth year of imprisonment ; 28 days from sixth year of imprisonment to fourteenth year of imprisonment and 40 days thereafter. It appears that such a prisoner can have a maximum period of 89 days ordinary leave.

6. Such interpretation would result in harsh consequences, but then, we have to stay true to the statutory language. We thought that the harshness can be mitigated only by availing emergency leave and by the government exercising its discretion. We were proceeding towards such a harsh conclusion because the expression “spell” is found in more than one place in the rule. Rule 13 states that the period of fifteen days has to be broken into four spells. The proviso to sub-rule (2)(c) of Rule 22 states that the maximum period of 40 days of ordinary leave may be availed in one spell or in two spells of any duration. If it is understood that a life convict can avail 40 days ordinary leave every year, sub-rule (3) will become meaningless.



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7. Then, it struck one of us (**Justice R. Poornima**) that a look at the rule history might provide a way out. The unamended Rule 22 reads as follows :

“22. Eligibility for ordinary leave:

(1) No prisoner shall be granted ordinary leave unless he has been sentenced by a court in this State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed [three years of imprisonment from the date of initial imprisonment.]

(2) The period of ordinary leave shall not exceed one month at a time unless it is extended by Government.

(3) The prisoner shall be granted the second spell of leave not exceeding one month after the completion of two years of imprisonment from the date on which he returns from the last ordinary leave.

(4) In cases of prisoners who have got a balance of three years to serve ordinary leave not exceeding one month for each of three years, the year being calculated from the date of his return to prison from last leave, shall be granted so as to enable them to make arrangements for settling the family life after release.”



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Sub-rule (3) explicitly provided for grant of a second spell of leave not exceeding one month. But the time gap between the two spells must be two years. Sub-rule (4) is even more clear. It provides for one month leave per year. This is clear from the use of the expression “one month for each of years”. Since such clarity is absent in the amended Rule, we were thrown into a doubt. But the current practice is in consonance with the unamended rule. We are inclined to hold that it would not have been the intention of the rule-makers to take away the rights of prisoners through an amendment. We reiterate that only by taking into account the current practice and the understanding of the prison authorities and the unamended Rule 22, we have not literally applied the amended Rule 22. That apart, liberal grant of ordinary leave would also ensure the psychological health of the prisoner.

8.Having so held, we dispose of this writ petition in the following terms :

(a)The convict-prisoner, Gopi @ Shagaya Burono, S/o.Francis, [PID No.18061] now detained at Central Prison, Palayamkottai is granted emergency leave for six days (6) from 08.04.2026 to 13.04.2026 without escort.



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(b) The convict prisoner shall be released from the prison at 10.00 a.m. on 08.04.2026 and he shall return to the prison at 05.00 p.m on 13.04.2026.

(c) During the said leave period, he shall report before the Inspector of Police, Rajakamangalam Police Station, Kanyakumari District daily at 06.00 p.m., from 09.04.2026 onwards, without fail.

(d) During the leave period, the convict prisoner shall abide by all the conditions prescribed in the Jail Manual.

No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.P, J.]
01.04.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

Note: Issue order copy on 06.04.2026.

To

1.The Home Secretary,
Home Department (Prison),
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Deputy Inspector General of Prisons,
Madurai Range,
Madurai - 625 001.



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- 3.The Superintendent of Prison,
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- 4.The Inspector of Police,
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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