

W.P(MD)No.229 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P(MD)No.229 of 2024

P.Gunasekaran

... Petitioner

Vs.

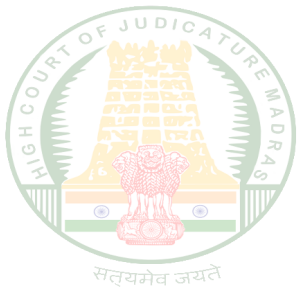
1.The Deputy Inspector General (Prison),
Madurai Circle,
Madurai.

2.The Superintendent,
Central Prison,
Madurai.

3.The Inspector of Police,
NIB-CID,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus directing the 2nd respondent to grant leave to the petitioner's grandson Mr.Mothees, S/o.Easwaran and the petitioner's son Mr.Naveen Kumar, S/o.Gunasekaran for five days from dated 05.01.2024 to 09.01.2024 by considering the petitioner's representation dated 28.12.2023.



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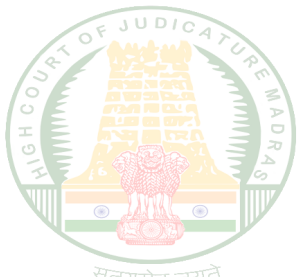
For Petitioner : Mr.A.Joseph Jerry
For Respondents : Mr.S.Ravi,
Addl. Public Prosecutor

ORDER

J.NISHA BANU, J.
AND
K.K.RAMAKRISHNAN, J.

This writ petition has been filed seeking for a direction to the 2nd respondent to grant leave for five days ie., from 05.01.2024 to 09.01.2024 to the petitioner's grandson Mr.Mothees, S/o.Easwaran and the petitioner's son Mr.Naveen Kumar, S/o.Gunasekaran, who are confined at Central Prison, Madurai, by considering the petitioner's representation dated 28.12.2023.

2. The learned counsel for the petitioner submits that the daughter of the petitioner by name Yogarani, died due to ailments on 23.12.2023. She is the mother of the detenu namely Mr.Mothees, S/o.Easwaran and sister of Mr.Naveen Kumar, who is the son of the petitioner. The 16th day funeral rites is fixed on 06.01.2024. Therefore, the petitioner made a representation to the respondents 28.12.2023 seeking to grant leave to the detenus from 05.01.2024 to 09.01.2024. Since the said representation was not considered, the



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present writ petition is filed.

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3. The learned Additional Public Prosecutor submitted that Rule 21 of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter referred to as 'the Rules') was amended through G.O.Ms.No.205 dated 25.04.2022. Clause 'H' was added to Rule 21 and the category of prisoners convicted for heinous offences have been held not to be entitled for ordinary leave under Rule 21 of the Rules. The learned Additional Public Prosecutor submitted that the detenues in the present case were convicted for an offence under NDPS Act and hence they will not be entitled for grant of ordinary leave. In view of the same, the learned Additional Public Prosecutor sought for the dismissal of this petition.

4. We have carefully considered the submissions made on either side.

5. In the present case, the reason that has been assigned seeking for leave of the detenues is that they want to attend the 16th day ceremony of the mother and sister of the detenues respectively. Considering the relationship and the importance of the ceremony



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which attaches a lot of sentimental value for a son and brother, we are of the considered opinion that Rules should not come in the way and stop the son and brother from attending the ceremony. Rules are meant to bring consistency while granting leave to the convict prisoners and to keep the movement of the convicts outside the jail under control. But, however, when it comes to the relationship between a mother and a son, the Rule has to be mended and it will be tyrannical to deprive a son from attending death ceremony of his own mother. After all even a prisoner, who has committed a heinous crime is entitled to be treated as a human being and such a right is guaranteed under Article 21 of the Constitution of India.

6. In view of the above discussion, as a special case, we deem it fit to grant leave to the detenus to attend the 16th day ceremony of Yogarani, who is the mother of Mothees and sister of Naveen Kumar to be held on 6th of January, 2024.

7. This Writ Petition is disposed of with a direction to the second respondent to grant emergency leave to the detenus with escorts, namely, Mr.Mothees, S/o.Easwaran and Mr.Naveen Kumar, S/o.Gunasekaran, for two days ie., on 06.01.2024 and 07.01.2024. The detenus shall be released from the jail on 06.01.2024 at



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07.00 a.m. and they shall be brought back to the jail on 07.01.2024 at

5.30 p.m. Costs for providing escorts shall be borne by the petitioner.

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[J.N.B.,J.] & [K.K.R.K.,J.]

05.01.2024

Index :Yes/No

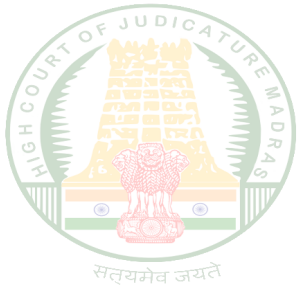
NCC :Yes/No

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Note:Issue Order Copy on 05.01.2024

To

- 1.The Deputy Inspector General (Prison),
Madurai Circle,
Madurai.
- 2.The Superintendent,
Central Prison,
Madurai.
- 3.The Inspector of Police,
NIB-CID,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VERDICTUM.IN



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J.NISHA BANU, J.
AND
K.K.RAMAKRISHNAN, J.

pm

ORDER MADE IN
W.P(MD)No.229 of 2024

05.01.2024