

**Gandhimathi Vs. the Superintendent of Central Prison,**

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**SooperKanoon Citation :** [sooperkanoon.com/1167982](http://sooperkanoon.com/1167982)

**Court :** Chennai

**Decided On :** Oct-30-2014

**Judge :** M.Venugopal

**Appellant :** Gandhimathi

**Respondent :** The Superintendent of Central Prison,

**Judgement :**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED: 30.10.2014 CORAM THE HONOURABLE MR.JUSTICE M.VENUGOPAL W.P(MD)No.17306 of 2014 Gandhimathi ..Petitioner Vs The Superintendent of Central Prison, Trichy Central Prison, Trichy..Respondent Prayer Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to grant 20 days leave(Parole) to the Petitioner's sons namely Raja, son of Malairaja and Muthukumar, son of Malairaja, who are undeergoing sentence as life convict in Central Prison, Trichy to make an arrangement to provide necessary medical treatmenet to their father namely Malairaja in pursuance of Rule 20 of the Tamil Nadu Suspension of Sentence Rules, 1982.

!For Petitioner :M/s.N.Satish Babu For Respondent :Mr.V.Muruganandam, Addl.Govt.Pleader :

ORDER

Heard both sides.

2. According to the Petitioner, her two sons namely Raja and Muthukumar are presently undergoing sentences as life convicts in Central Prison, Trichy.

Her husband who is a coolie by profession is severely affected by paralytic attack and heart disease.

Due to paralytic attack, her husband's hand and legs are partially not functioning.

As such, she is only attending the coolie work and managing her day-to-day life with a paltry sum of income.

3. It is the case of the Petitioner that the Doctors have advised to admit her husband in a Speciality Hospital available in Madurai, for which, she requires the service of her two sons namely, Raja and Muthukumar, who are presently lodged in Central prison, Trichy as life Convicts.

She has also averred in the affidavit filed in support of the Writ Petition to the effect that if her two sons are by her side and her ailing husband, it would be useful to mobilise funds to provide necessary treatment.

As such, she has filed the present Writ of Mandamus praying for issuance of a direction to the respondent to grant twenty days parole leave to her two sons namely Raja and Muthukumar, both sons of Malai Raja, who are undergoing sentences as life convicts in Central Prison, Trichy, so as to enable them to make arrangements for necessary treatment to their father, in pursuance to Rule 20 of Tamil Nadu Suspension of Sentence Rules, 1982.

4. The learned counsel for the Petitioner refers to the order dated 23.6.2014 in W.P.No.9574 of 2014 between Devaki .versus The Superintendent of Central Prison, Trichy Central Prison, Trichy, whereby and whereunder, this Court in para 7 observed and held as under: ?7. Accordingly, the Writ Petition is allowed and the impugned order of the respondent in NO.10360/Jf.4/2014, dated 7.6.2014 is set aside and the respondent is directed to grant ordinary leave to the Petitioner's husband by name Ramachandran, for a period of ten days from 27.6.2014

4.00 p.m. To 7.7.2014 4.00 p.m. He should report before the fiRs. respondent by 4.00 p.m. On 7.7.2014.

The respondent is directed to provide armed escort and take all necessary steps to ensure that the life convict returns after the expiry of ordinary leave.

The respondent is permitted to impose reasonable conditions taking into account the security and return of the life convict to the jail after expiry of ordinary leave.

No costs.?

5. Per contra, it is the submission of Mr. V. Muruganandam, Learned Additional Government Pleader for the respondent that the Petitioner's two sons, who are currently undergoing sentence as life convicts in Central Prison, Trichy in connection with Sessions case No. 97/99, on the file of the trial Court and later in Criminal Appeal No. 823 of 2002, this Court had confirmed the conviction and sentence awarded to the Petitioner's two sons and now the matter is pending before the Honourable Supreme Court in Crl.A.No.627 of 12.

As such, it is not open to the Petitioner to seek parole for her two sons because of the reason that their father and her husband is not well and to be taken care of by them in conscience.

6. Also, it is represented on behalf of the respondent that as per Rule 22(1) of the Tamil Nadu Suspension of Sentence Rules, 1982 (Tamil Nadu Prison Manual Volume III) ordinary leave may be granted to the Petitioners who have been sentenced by a court in this state to imprisonment for a term or imprisonment for life for an offence against any law relating to a matter to which the executive power of the Union Government extends.

Rule 2(4) of the aforesaid rules ?.sentence?.

means a sentence as finally fixed on appeal or revision or otherwise and includes as aggregate of more sentence than one etc. Apart from the above, the appeal of the above life convict is still pending before the Honourable Supreme Court, New Delhi and as such in terms of the ingredients of the Tamil Nadu Suspension of

Sentence R20.

7. At this juncture, this Court points out Rule 20 of Tamil Nadu Suspension of Sentence Rules, 1987 enjoins as follows: 20. Grounds for the grant of ordinary leave. The grounds for the grant of ordinary leave to a prisoner shall be-- (i) to make arrangements for the livelihood of his family and for settlement of life after release; (ii) to make arrangements for the admission of the children in the school or college; (iii) construction or repairing the home-stead; (iv) to make arrangements or to participate in the marriage of sons, daughters, full brothers or full sisters; (v) settling family dispute like partition etc.; (vi) agricultural operations like sowing, harvesting etc. and (vii) any other extraordinary reasons. Rule 20, 1982, the convicts in question are not eligible for granting emergency leave or ordinary leave.

8. From the above decision it is facetly quite clear that Rule 20(VII) of the Tamil Nadu Suspension of Sentence Rules clearly speaks of any other extraordinary reasons being a ground to be taken into consideration for the grant of ordinary leave to the prisoners concerned.

9. In the instant case on hand, the life convicts Raja and Muthukumar's mother has filed the present Writ Petition inter-alia stating that her two sons namely Raja and Muthukumar's service are very much required to assist her ailing husband who is suffering from paralytic attack and heart disease.

As such, this Court by adopting the humane and sympathetic approach, in the interest of justice, fair play, grants permission to the Petitioner's two sons, namely Raja and Muthukumar (life convicts) to attend their father's ailment for a period of four days from 1.11.2014 To 4.11.2014 5.00 p.m. and during these four days, the Petitioner's sons are at liberty to take necessary steps for providing medical treatment to their father and also to assist their mother till 5.00 p.m. On 4.11.2014, in this regard, after providing necessary medical treatment or making arrangements in connection with the father's treatment, the Respondent is hereby directed to ensure that the Petitioner's two sons, namely Raja and Muthukumar, sons of Malai Raja are brought back to the central prison, Trichy with adequate/necessary Police escorts and lodged there.

10. In the interregnum, during the period from 01.11.2014 5.00 p.m. to 4.11.2014 5.00 p.m., the Petitioner's sons namely Raja and Muthukumar (life convicts) are directed to report before the Inspector of Police, Town Police station, Sivagangai, daily at 10.00 A.M in the morning without fail at any cost.

It is made clear that during parole, the Petitioner's two sons, namely Raja and Muthukumar shall abide by the conditions prescribed in the jail manual in true letter and spirit.

11. The learned Additional Government Pleader is directed to communicate a copy of this order to the Respondent immediately for strict compliance of the order.

The Respondent is directed to submit a complete and comprehensive report to the registry as to the compliance of the direction by this Court.

12. With the aforesaid directions, the Writ Petition stands disposed of.

No costs.

30.10.2014 Index : yes Internet: Yes versus To The Superintendent of Central Prison, Trichy Central Prison, Trichy.

M.VENUGOPAL, J versus W.P(MD) No. 17306 of 2014 30.10.2014

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