

Mookan Vs. State of Tamil Nadu

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Court : Chennai

Decided On : Mar-14-2014

Judge : The Honourable Mrs.Justice Pushpa Sathyanarayana

Appellant : Mookan

Respondent : State of Tamil Nadu

Judgement :

In the High Court of Judicature at Madras Dated:

14. 03.2014 Coram :- THE HON'BLE MR.JUSTICE V.DHANAPALAN and THE HON'BLE MR.JUSTICE G.CHOCKALINGAM Habeas Corpus Petition No.829 of 2014 Mookan S/o.Kattaiyan No.2, MGR Nagar 1st Street, Vyasarpadi, Chennai-600 039. ... Petitioner -vs- 1. The State of Tamil Nadu, Rep. by the Secretary to Government, Home, Prohibition and Excise Department, Fort St.George, Chennai-9.

2. The Director General of Prison, Egmore, Chennai-600 008.

3. The Superintendent of Central Prison, Puzhal, Chennai-600 066. ... Respondents Prayer: Habeas Corpus Petition under Article 226 of the Constitution of India is filed, praying for a direction to the respondents to grant 3 days parole to the detenu Chandrasekar @ Sekar, S/o.Mookan to attend the Death Cerimony of his brother Periyasamy, died on 14.03.2014 and his death ceremony to be held at Vyasarpadi Burial Ground on 15.03.2014 morning at 9.00 a.m., who is Now

confined at the central prison, Puzhal, Chennai. For petitioner - Mr.A.Ramesh For Mr.R.Sankarsubbu For respondents - Mr.P.Govindarajan Addl. Public Prosecutor

ORDER

Petitioner is the father of detenu, namely, Chandrasekar @ Sekar, Son of Mookan, who has been detained under the Tamil Nadu Act 14 of 1982 on 02.09.2013. According to the petitioner, the brother of detenu Periyasamy has died on 14.03.2014 at about 8:45 a.m. The presence of the detenu, who is the elder brother of the deceased Periyasamy, is very much necessary for conducting his death ceremony at Vyasarpadi burial ground at 09:00 a.m. on 15.03.2014. The petitioner has made a representation to the respondents on 14.03.2014 with a request to grant parole for three days to his son to enable him to attend the death ceremony of Periyasamy. But, so far the respondents have not passed any order and, therefore, the petitioner is before this Court by way of filing this petition.

2. Mr.A.Ramesh, learned counsel appearing for the petitioner, submits that the detenu, being elder brother of Periyasamy has to perform his last rites, for which, his presence is indeed required. Even though the father of detenu has written to the respondents through e-post dated 14.03.2014, requesting them to grant parole to his son for three days, no decision has been taken thereon by the respondents. He also would submit that when the character and conduct of the prisoner is satisfactory, there is no legal impediment for the authorities concerned in considering the request for parole.

3. Per contra, Mr.P.Govindarajan, on oral instructions from the respondents, has submitted that the deceased brother of detenu by name Periyasamy, to whom death ceremony is going to be held on 15.03.2014, was done to death and the detenu is also involved in cases punishable under Section 302 IPC. He has also submitted that in the event of parole being granted to him for longer days, there is every possibility of occurring untoward and unwanted incident to his life and therefore, taking into account the risk involved in granting parole to the detenu for three days, grant of parole may be restricted to a day so as to bring him back to the prison on the very same day.

4. We have heard the learned counsel appearing on either side and perused the materials made available to the Court.

5. It is not in dispute that the petitioner's son has been detained under Act 14 of 1982 and undergoing incarceration at the Central Prison, Puzhal, Chennai since 02.09.2013. It is also informed that the brother of detenu Periyasamy was done to death and the death ceremony of the said deceased brother is scheduled to be held on 15.03.2014. The claim of the petitioner is that a representation has been made on 14.03.2014 by way of e-post and no decision has been taken till now. Whatever be the position, the request of the petitioner for release of his son for three days cannot be acceded in toto. Rule 13 of the Tamil Nadu Suspension of Sentence Rules, 1982 provides as follows : "

13. Maximum period of emergency leave : The total period of emergency leave to be granted to a prisoner by the Superintendent of Prisons or the Inspector General of Prisons, as the case may be, shall be fifteen days in a year to be spread over four spells, subject to the maximum of six days in any one spell according to the need of the prisoner on the occasion and the remaining nine days in three spells each spell not exceeding three days at a time and the decision of the superintendent or the Inspector-General of prisons in deciding the duration of the spell shall be final. However, in exceptional cases, the Government may extend the period of emergency leave following the procedure prescribed in rule 34. Application for emergency leave for the fifth time in a year shall be submitted to Government for prior orders."

6. A reading of this provision makes it clear that even the prison authorities, namely, the Superintendent of Prison and the Inspector General of Prison can grant six days leave in one spell according to the need of the prisoner.

7. Considering the aforesaid circumstances, as the petitioner, father of detenu, has sought for three days' leave to him, we are of the considered opinion that the detenu can be granted emergency leave for one day to enable him to participate in the death ceremony of his brother Periyasamy on 15.03.2014.

8. Accordingly, the 3rd respondent / The Superintendent of Central Prison, Puzhal, Chennai is directed to release the detenu Chandrasekar @ Sekar, S/o.Mookan on emergency leave for one day from Central Prison, Puzhal, Chennai at 07:00 a.m. on 15.03.2014 after following the usual procedure and other safeguarding measures in accordance with the Prison manual and he shall be taken back to the Central Prison, Puzhal, Chennai on the very same day before 6.00 p.m. on 15.03.2014. The Superintendent of Central Prison, Puzhal, Chennai / 3rd respondent, shall provide utmost escort to the detenu from the Central Prison, Chennai, from the time he leaves the Central Prison, Chennai and till such time he is taken back to the Central Prison, Chennai, on the said date and time as ordered by this Court.

9. This Habeas Corpus Petition stands disposed of. No costs. [V.D.P.,J.]. [G.C.,J.]. 14.03.2014 Index : Yes Website : Yes ar Note: Issue order copy on 14.03.2014 (today) itself. To 1. The State of Tamil Nadu, Rep. by the Secretary to Government, Home, Prohibition and Excise Department, Fort St.George, Chennai-9.

2. The Director General of Prison, Egmore, Chennai-600 008.

3. The Superintendent of Central Prison, Puzhal, Chennai-600 066.

4. The Public Prosecutor, High Court, Madras V.Dhanapalan, J.

and G.Chockalingam, J.

ar Habeas Corpus Petition No.829 of 2014 14.03.2014

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