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W.P.No.17740 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

**W.P.No.17740 of 2023**

Saranya

.. Petitioner

VS

1.The Deputy Inspector General of Prison,  
Chennai Range, Chennai.

2.The Superintendent of Prison,  
Central Prison, Puzhal, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to grant 15 days ordinary leave enabling the petitioner's father Ashok Kumar, son of Viswanathan, male, aged 63 years, convict prisoner No.9826, Central Prison, Puzhal, Chennai to attend naming ceremony of his grand child and also to take medical treatment to his ailment.

For Petitioner : Mr.T.R.Ravi

For Respondents : Mr.E.Raj Thilak,  
Additional Public Prosecutor



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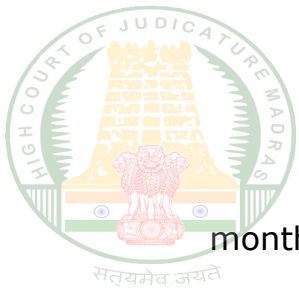
**ORDER**

[Order of the Court was made by M.SUNDAR, J.]

This order will now dispose of captioned Writ Petition.

2. Considering the narrow scope of the captioned writ petition, the main writ petition was taken up with the consent of both sides.

3. The factual matrix in a nut shell is that the writ petitioner's father 'Thiru.V.Ashok Kumar, son of Thiru.Viswanathan, aged 63 years' (hereinafter 'convict prisoner' for the sake of convenience) faced trial vide C.C. No.93 of 2011 on the file of the 'Special Court for Cases under Prevention of Corruption Act, 1988, Chennai' (hereinafter 'Trial Court' for the sake of convenience and clarity); that the convict prisoner was acquitted by the Trial Court vide judgement dated 31.07.2013; that on an appeal preferred by State vide Crl. A.No.125 of 2014, this Court reversed the Trial Court judgement in and by order dated 24.02.2023 and the convict prisoner was convicted inter-alia under Section 7 of 'The Prevention of Corruption Act, 1988' (hereinafter 'PC Act' for the sake of convenience and clarity) and sentenced to undergo six months rigorous imprisonment and a fine of Rs.5,000/- (to undergo two



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months simple imprisonment in the event of default to pay fine) and also one year rigorous imprisonment and a fine of Rs.5,000/- (to undergo simple imprisonment for three months in the event of default to pay fine) for charges under Sections 13(2) and 13(1)(d) of PC Act; that the sentences are running consecutively; that the convict prisoner is now serving sentence; that the convict prisoner's daughter (writ petitioner) sent a representation dated 08.06.2023 to the respondents seeking 15 days ordinary leave on two grounds; that one ground is the cradle ceremony (name giving ceremony) of the petitioner's child i.e., convict prisoner's grand child on 15.06.2023 and the other ground is ill-health of the convict prisoner and taking native treatment for the same at home.

4. Issue notice. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepted notice for both the respondents.

5. Learned Prosecutor adverted to Rules 22 and 21 of 'Tamil Nadu Suspension of Sentence Rules, 1982' (hereinafter 'said Rules' for the sake convenience and clarity) submitted that the sentence itself is for one year and therefore Rule 22(1)(a) is an impediment for grant of ordinary leave.



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6. We carefully considered the facts and circumstances of the case. We find that in the case on hand, it cannot be gainsaid that the sentence is for one year as there are two sentences, one for one year and another for six months which are to run consecutively (not concurrently) which has been captured supra while setting out the factual matrix. Therefore, the sentences is for (add upto) 18 months. In this view of the matter, the argument that Rule 22(1)(a) (Amended Rule 22 of said Rules) is an impediment does not really hold water.

7. As the lone objection of the learned Prosecutor turning on Rule 22 (1)(a) of said Rules does not cut ice with us owing to sentences added upto 18 months as alluded to supra, we find that this is an appropriate case to grant one week ordinary leave to the convict prisoner. We also notice that the name giving ceremony/function was held yesterday i.e., 15.06.2023 and therefore the convict prisoner will have the benefit of being with his grand child over the week end and can also take suitable native treatment at home for his ailments.

8. Though Rule 22 (1) (a) of said Rules may not present a problem in the manner in which it was projected before us, it may still pose a problem as the convict prisoner has not completed one



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year of imprisonment. Therefore, we deem it appropriate to exempt the convict prisoner from this provision by exercising our constitutional powers. In this regard, we notice that the executive arm of the State i.e., Government itself has been vested with power to exempt any person from all or some of the provisions of said Rules and therefore this constitutional Court exempting the convict prisoner from Rule 22 (1)(a) of said Rules would be a given.

9. We make it clear that this order will not serve as a precedent for all and every case and cases of this nature have to be dealt with on case to case basis depending on the facts and circumstances of each case.

10. In the light of the narrative, discussion and dispositive reasoning set out supra, we make the following order:

*10.1 One week ordinary leave is granted to the convict prisoner Thiru.V.Ashok Kumar, son of Thiru.Viswanathan, aged 63 years (Convict No.9826), who is now lodged in Central Prison, Puzhal - I, Chennai;*

*10.2 Aforementioned one week shall be from 19.06.2023 to Monday week i.e., 26.06.2023;*



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*10.3 The convict prisoner shall surrender to the prison authority i.e., Central Prison, Puzhal - I, Chennai on 26.06.2023 in the evening before dusk i.e., by 05.30 p.m.;*

*10.4 The convict prisoner shall present himself every day of leave and sign in a suitable register in the jurisdictional police station (we are informed that the jurisdictional police station is T-10 Thirumullaivoyal Police Station);*

*10.5 The convict prisoner shall stay in his daughter's house at No.10, Gayathri Nagar, School Street, Ayapakkam, Thiruvallur District - 600 077 during the leave period;*

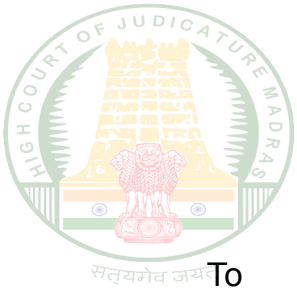
11. Captioned writ petition is disposed of with the aforementioned directives. There shall be no order as to costs.

12. Though captioned writ petition has been disposed of, Registry is directed to list the matter under the cause list caption 'FOR REPORTING COMPLIANCE' on 27.06.2023.

**(M.S.,J.) (R.S.V.,J.)**  
16.06.2023

Index : Yes / No  
Neutral Citation : Yes / No  
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**P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai.**



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To

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- 1.The Deputy Inspector General of Prison,  
Chennai Range, Chennai.
- 2.The Superintendent of Prison,  
Central Prison, Puzhal, Chennai.
- 3.The Inspector of Police,  
T10 Thirumullaivoyal Police Station,  
Thiruvallur District.
- 4.The Public Prosecutor,  
High Court, Madras.



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**M.SUNDAR, J.,  
and  
R.SAKTHIVEL, J.,**

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