

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 31.05.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

Crl.M.P.Nos.6003 & 6004 of 2021
in
H.C.P. Nos.595 & 526 of 2021

Kamalakannan ...Petitioner in both CMPs.

Versus

- 1.The State of Tamil Nadu
Rep.by its Secretary,
Department of Home Prohibition and Excise,
Fort.St.George, Chennai-9.
- 2.The District Collector and District Magistrate,
Tirupathur,
Thirupathur District.
- 3.The Superintendent of Police,
Tirupathur,
Thirupathur District.
- 4.The Inspector of Police,
Tirupathur Town Police Station,
Thirupathur District.
- 5.The Superintendent,
Central Prison,
Vellore, Vellore District. ... Respondents in both CMPs

Prayer in C.M.Ps.: Petitions filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to direct the 5th respondent to grant one week leave to the detenus Prabu @ Prabakaran aged about 30 years S/o.Sankar and the detenu Sheik @ Aravindan aged about 23 years S/o.Sankar booked under the preventive detention in C3/D.O.18/2021, C3/D.O.17/2021 and C3/1805/2021, C3/1803/2021 respectively pending disposal of the HCP.Nos.595 and 526 of 2021.

For petitioner in both CMPs :Mr.R.Sankarasubbu
For Respondents in both CMPs :Mr.R.Muniyapparaj,
Additional Public Prosecutor

COMMON ORDER

(Order of this Court was delivered by DR.G.JAYACHANDRAN, J.)

These two petitions are filed by one Kamalakannan, brother-in-law of the detenus seeking one week leave to the detenus Prabu @ Prabakaran aged about 30 years S/o.Sankar and Sheik @ Aravindan aged about 23 years S/o.Sankar detained under the preventive detention in C3/D.O.18/2021 & C3/1805/2021 and C3/D.O.17/2021 &C3/1803/2021.

2. Heard the learned counsel for the petitioner.

3. The facts in these two cases are that, these two detenus are blood brothers and they were detained under the Act 14 of 1982, along with their father Sankar. The said Sankar died on 28.05.2021 due to COVID 19. These petitions are filed immediately seeking leave to attend the funeral of Sankar. However, since Sankar died due to COVID 19, the protocol of the Government does not permit the regular religious procedure for funeral and therefore, even before taking up these petitions the funeral was over. Now the learned counsel for the petitioner seeks consideration of the representations given by the detenus for leave to complete the other ceremonies of the departed soul.

4. The learned Additional Public Prosecutor submits that being detained under the preventive law, the temporary release of the detenus will go against the spirit of the constitutional Bench Judgment of the Hon'ble Supreme Court rendered in Sunil Fulchand Shah Vs. Union of India reported in 2000(1) SLR 945 = 2000(3) SCC 409.

5. Taking note of the extraordinary circumstances and the provision of the Act 14 of 1982, particularly Section 15 which provides for temporary release of the detenus by the Government, this Court directs the 1st respondent to consider the representations given on behalf of the detenus for grant of temporary leave and pass appropriate orders as per law considering the facts and circumstances, before 03.06.2021.

6. With this direction, the Criminal Miscellaneous Petition Nos.6003 and 6004 of 2021 are disposed of.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpl
To

- 1.The Secretary,
State of Tamil Nadu
Department of Home Prohibition and Excise,
Fort.St.George, Chennai-9.
- 2.The District Collector and District Magistrate,
Tirupathur,
Thirupathur District.
- 3.The Superintendent of Police,
Tirupathur,
Thirupathur District.
- 4.The Inspector of Police,
Tirupathur Town Police Station,
Thirupathur District.
- 5.The Superintendent,
Central Prison,
Vellore, Vellore District.
- 6.The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
- 7.The Public Prosecutor
High Court, Madras 104.

Cr1.M.P.Nos.6003 & 6004 of 2021
in
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VBM(CO)
SP(01/06/2021)

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