

W.P.CrL.(MD).No.1695 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.04.2026

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P.CrL.(MD).No.1695 of 2026
and
W.M.P.CrL.(MD) No.411 of 2026**



..... Petitioner

Vs.

- 1.The Deputy Inspector General of Prisons,
Prisons and Correctional Services Department,
Madurai Range, Madurai.
- 2.The Superintendent of Prison,
Central Prison, Madurai.
- 3.The Superintendent of Police,
Sivagangai District.
- 4.The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.

..... Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the order passed by the 2nd respondent in No.944/Ootha.2/2025 dated 11.09.2025 and quash the same and consequently directing the 1st and 2nd respondents to grant 21 days ordinary leave without escort to the petitioner's husband named [REDACTED]

For Petitioner : Mr.S.Srikanth

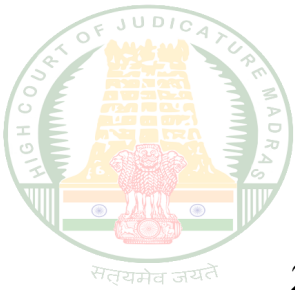
For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

[Order of the Court was made by N.ANAND VENKATESH, J.]

This Writ Petition has been filed challenging the impugned proceedings of the second respondent made in No.944/Ootha.2/2025 dated 11.09.2025 and for a consequential direction to the respondents 1 and 2 to grant 21 days ordinary leave without escort to the petitioner's husband, who is presently serving sentence at Central Prison, Madurai.

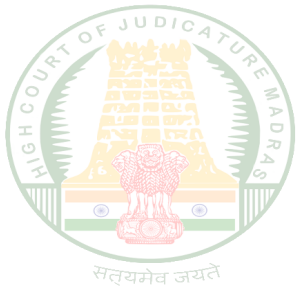


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2. The petitioner is the wife of the convict. The convict underwent trial in Spl.S.C.No.65 of 2018 on the file of the Special Court for Exclusive Trial of SC/ST Act Cases and by judgment dated 05.08.2022, the convict was convicted and sentenced to undergo life imprisonment on three counts. The judgment of the Trial Court was confirmed by this Court in Crl.A(MD) No.591 of 2022, by judgment dated 26.02.2026. As against the said judgment, no appeal has been filed before the Apex Court and hence, the conviction and sentence has become final.

3. The petitioner submitted a representation before the respondents seeking for ordinary leave on the ground that the petitioner is desirous of having a child through the convict and that for this purpose, the petitioner has to undergo fertility treatment. Therefore, ordinary leave was sought for on this ground. The second respondent through the impugned proceedings dated 11.09.2025 rejected the representation made by the petitioner and aggrieved by the same, the present Writ Petition has been filed before this Court. The second respondent has filed a counter affidavit. The stand taken by the second respondent is extracted hereunder:

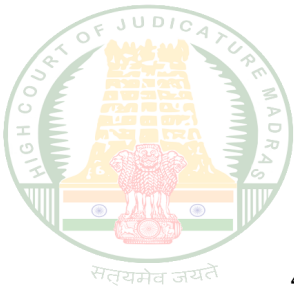


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i) It is humbly submitted that the Probation Officer, Sivagangai, vide letter dated 03.09.2025 has given report stating that the reason sought for leave was true. But Probation Officer has not recommended leave because there may be chance of life threat of the prisoner and law and order problem may be arise if the prisoner is released on leave.

(ii) It is humbly submitted that Inspector of Police, Thiruppachetti Police Station has vehemently objected his leave since law and order problem may arise and there may be a chances of life threat for the prisoner as well as life threat of the victims if the prisoner is released on leave.

(iii) It is humbly submitted that based on the reports of the Probation Officer, Sivagangai and Inspector of Police, Thiruppachetti Police Station as proposal for the lave request of the prisoner was sent to the Deputy Inspector General of Prisons, Madurai Range, Madurai vide this office letter No.3517/R2/2025, dated 11.09.2025 for order.

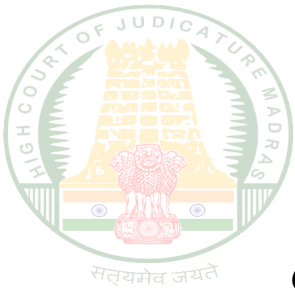


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4. We heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents. We carefully considered the impugned order passed by the second respondent. The petitioner has sought for ordinary leave to the convict in order to undergo fertility treatment for the petitioner and the convict and to bear a child.

5. During the course of hearing, we had put a pointed question to the learned counsel for the petitioner as to whether the ground that has been raised by the petitioner seeking for ordinary leave is covered under Rule 20 of Tamil Nadu Suspension of Sentence Rules, 1982. The learned counsel submitted that even though no such specific ground is available under Rule 20, the right of the petitioner to bear a child through the convict has to be taken into consideration by this Court and therefore, under such extraordinary circumstances, this Court can exercise its jurisdiction under Article 226 of Constitution of India and pass appropriate orders. The learned counsel, in order to substantiate the submission relied upon the judgment of the ***Kerala High Court in Abhaya V Venu Vs.State of Kerala in W.P.Crl.No.723 of 2023 dated 29.09.2023.***



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6. Per contra, the learned Additional Public Prosecutor submitted that the leave under the Tamil Nadu Suspension of Sentence Rules, 1982, cannot be claimed as a matter of right and it is only a privilege that has been given to the convict and therefore unless and otherwise the conditions are satisfied under the Tamil Nadu Suspension of Sentence Rules, 1982, ordinary leave cannot be granted to the convict.

7. Admittedly, in this case, Rule 20, which deals with the grounds for grant of ordinary leave, does not provide for granting ordinary leave to enable the petitioner and / or the convict to undergo fertility treatment. As was rightly contended by the learned Additional Public Prosecutor, this Court is not dealing with a right of the convict and at the best, what has been granted under the Suspension of Sentence Rules, 1982 is only a privilege and therefore, we have to necessarily satisfy ourselves that such privilege is sought for in accordance with the requirements provided under the Rules.

8. The convict and the petitioner want to have a child. In the order that was relied upon by the learned counsel for the petitioner, the High



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Court of Kerala has taken into consideration the desire expressed by the wife and has proceeded to wriggle out of technicalities and permitted 15 days leave to the convict, to undergo the treatment. The Kerala High Court also made it clear that this order cannot be cited as a precedent in every case and that each case will be considered only based on the genuineness of the claim made by the convict. In view of the same, the order relied upon by the learned counsel for the petitioner cannot be taken to be a precedent.

9. In the case in hand, both the petitioner and the convict are conveniently ignoring the right of a child, to be born. The child when it enters this world will grow up with a stigma that it is the child of a life convict, who is serving sentence for having committed a heinous crime involving triple murder. In such a scenario, this Court cannot merely act upon the right that is claimed by the petitioner and ignore the interest of the child, which will carry such a stigma throughout its life. This Court cannot turn a blind eye to this reality and therefore, while balancing the right of the petitioner and the child, this Court is more concerned about the welfare of the child, to be born in this world and which will face the



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consequences psychologically exerted by the society for the heinous acts committed by the convict. The theory of reformation is focused on the convict and that has nothing to do with the desire of a convict to have a child, which for no fault on its part is going to carry a stigma throughout its life. Neither the petitioner nor the convict will have the right to place the child in such an unfortunate position right through its life.

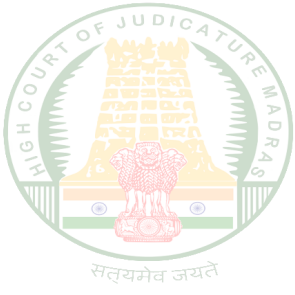
10. In the light of the above discussion, we do not find any illegality in the order passed by the second respondent and it does not warrant the interference of this Court and accordingly, this Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

[N.A.V., J.] & [K.K.R.K., J.]
27.04.2026

NCC : Yes

Index : Yes

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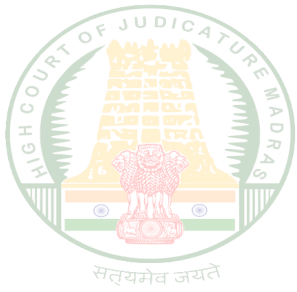


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