2026:MHC:4186

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 31.08.2026

Pronounced on: 12.10.2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP Crl. No. 2023 of 2026
AND
WPMP CRL. NO. 728 OF 2026

S.Babu
S/o. Sami.
PID No.33243,
Puzhal Central Prison, Puzhal-600 066.

..Petitioner(s)

Vs

The State represented by its,
1. The Deputy Inspector General of Prison,
Puzhal Range,
Puzhal-600 066.

2.The Superintendent,
Central Prison, Puzhal,
Puzhal-600 066.

..Respondent(s)

Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order No.CP-PU1/2012/2026-R2 letter dated: 22.07.2026, passed by the

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2nd respondent and quash the same and consecutively direct the 1st respondent to grant ordinary leave for 14 days without escort to the detenue, S.Babu (M/65) S/O Sami, aged 65 years, convict prisoner, bearing PID.No-33243, confined at Central Prison, Puzhal and pass such further or other orders as this Hon'ble Court may deem fit to the circumstances of the case and thus render justice.

For Petitioner(s): Mr.M.Ezhilarasu

For Respondent(s): Mr.C.R.Malarvannan,
Counsel for Government of Tamil Nadu
(Criminal Side)

ORDER

Dr.Anita Sumanth, J.

The petitioner, a convict in Central Prison, Puzhal had sought ordinary leave of 14 days without escort. The request had been rejected by way of the impugned order dated 22.07.2026 and this writ petition is instituted challenging that order.

2. We have heard Mr.M.Ezhilarasu, learned counsel for petitioner and Mr.C.R.Malarvannan, learned counsel for Government of Tamil Nadu (Criminal Side) for respondents.

3. The proforma setting out the details of leave granted to the convict indicates that the petitioner was convicted on 10.03.1992, the conviction was confirmed on 07.03.2001 and as on 12.08.2026 he has been confined for 18

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years 2 months and 16 days. The convict has availed total leave of 456 days of which 129 days fall in the category of Emergency Leave, and of the balance, 270 days has been granted by the authorities and 57 days by intervention of this Court, all without escort.

4. The reasons for rejection of the request are manifold. Firstly, the authorities state that the convict had a pending case in C.C.No.70 of 2016 before the Judicial Magistrate No.II, Ponneri, and Rule 35 of the Tamil Nadu Suspension of Sentence Rules, 1982 (Rules) is a bar for the grant of leave in such circumstances.

5. That apart, the convict had absconded in 1997 when he has been granted leave without escort and had been re-captured only on 23.11.2000. Again, when he was granted 30 days Government leave between 03.01.2004 and 03.02.2004 without escort, he had absconded and was re-captured on 06.09.2014.

6. The third reason is invoking Rule 22(3) of the Rules as amended by G.O.Ms.No.205, Home (Prison-V) Department, dated 25.04.2022, wherein a prisoner should have completed one year of imprisonment from the date of his return from the last ordinary leave to be eligible for the next ordinary leave. Since the convict had availed 26 days ordinary leave between 03.04.2006 to 29.04.2026, he has not completed the mandatory one year period.

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7. As far as the first reason is concerned being the bar under Rule 35, the case has been decided vide judgment dated 02.07.2026 wherein the prisoner has been convicted under Section 224 of IPC and sentenced to undergo 2 months and fine of Rs.2000/-, in default, to undergo simple imprisonment for one month. This ground is hence no longer available to the respondents as the petitioner would have served out the sentence by now.

8. Coming to the second reason relating to abscondence of the Petitioner, we may usefully refer to Circular No.26594/PS.4/2017 that reads as follows:-

> *No.26594/PS.4/2017 O/o. Additional Director General of Police/Inspector General of Prisons, Chennai – 8.*
>
> *Dated : 15.12.2017*
>
> *Sub : Prisons – Granting of leave to prisoners – instructions issued – Regarding.*
>
> *Ref : This office memo No. 26594/PS4/2017, dated – 13.10.2017*
>
> *In this office memo cited, instructions have been issued not to grant any sort of leave to those prisoners who were absent on leave previously and facing / faced case u/s 224 IPC.*
>
> *2. In this connection, it is informed that during the course of meeting of Additional Director General of Police / Inspector General of Prisons with the Range Deputy Inspector General of Prisons and Superintendent of Prisons held on 11.12.2017, the matter was discussed in detail. All the Range Deputy Inspector General of Prisons and Superintendent of Prisons are instructed not to grant any sort of leave to the prisoner who were absent on leave*

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previously and facing / faced case u/s 224 IPC in the past 5 years preceding the date of commencement of leave.

Sd/-
Addl.Director General of Police
/Inspector General of Prisons.

9. The bar against the grant of leave under the above Circular is effective for a period of 5 years from end of the date when the convict had gone absconding. In the present case, the abscondence was in 1997 and 2004, and the 5 year period set out in the Circular is long gone, as in 2009.

10. We had occasion to consider the same point in *Chinnathambi v The Director General of Prisons, Coimbatore Range, Coimbatore Central Prison, Coimbatore and another*[1], and had concluded that abscondence cannot be held against the convict for all time. In fact, the Convict has been granted leave subsequently on several occasions both by the authorities as well as by the Court. That apart, there has been no attempt to abscond thereafter, and no untoward conduct reported by the authorities. We are hence of the considered view that the second ground is also of no avail to the authorities.

11. We now come to third question relating to the bar as per Rule 22 that reads as follows:-

> *Eligibility for ordinary leave –*
>
> *(1) No prisoner shall be granted ordinary leave unless he has been sentenced by a court in this*

[1][2026 : MHC : 2182]: WP Crl. No. 895 of 2026 dt 17.6.2026

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State to imprisonment for a term or imprisonment for life for an offence against any law other than a law relating to a matter to which the executive power of the Union Government extends and he has completed.-

(a) one year of imprisonment in cases of prisoners sentenced to imprisonment for a period not exceeding five years;

(b) two years of imprisonment in cases of prisoners sentenced to imprisonment for a period exceeding five years but not more than fourteen years;

(c) three years of imprisonment in cases of prisoners sentenced to imprisonment for a period exceeding fourteen years and for life.

Explanation – The period of actual imprisonment shall be counted from the date of admission to prison as convict.

(2) The ordinary leave shall not exceed the period as specified below at a time, unless extended by the Government:-

(a) twenty one days for the prisoners sentenced to imprisonment for a period not exceeding five years;

(b) twenty one days from the third to fifth years of imprisonment and not exceeding twenty eight days during the rest of the term of imprisonment for the prisoners sentenced to imprisonment for a period exceeding five years but not more than fourteen years;

(c) twenty one days during the fourth and fifth years of imprisonment; not exceeding twenty eight days from the sixth year of imprisonment to fourteenth year of imprisonment and not exceeding forty days during the rest of the term for prisoners sentenced to imprisonment for life and those sentenced exceeding fourteen years:

Provided that the maximum period of forty days of ordinary leave may be availed in one spell or in two spells of any duration.

(3) The prisoner shall be granted the second or subsequent spell of ordinary leave not exceeding the period mentioned in sub rule (2) above, after

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the completion of one year of imprisonment from the date on which he returns from the last ordinary leave.

12. The Scheme of Rule 22 that provides for the grant of ordinary leave, is as follows.

(i) Rule 22 (a) deals with a convict whose sentence is less than three years, Rule 22(b) deals with a convict whose sentence is 10 years and Rule 22(c) deals with a convict whose sentence is either more than 14 years or life.

13. Rule 22(2) specifies the period of leave that may be granted and (i) 22(1)(a) is required to be read with 22(2)(a) in cases of sentence not exceeding 5 years, where leave of 21 days may be granted

(ii) 22(1)(b) is to be read with 22(b) in cases of sentence between 5 and 14 years, where 28 days of leave may be granted from the 6th to 14th year of the imprisonment and

(iii) 22(1)(c) is to be read with 22(2)(c) where in cases of sentence exceeding 14 years and for life, leave not exceeding 40 days may be granted for prisoners from the 6th to the 14th year of imprisonment, and for the remainder of the term beyond 14 years.

14. The Proviso to Rule 22(2)(c) states that the maximum period of forty days of ordinary leave may be availed in one spell or in two spells of any duration. Rule 22(3) states that there shall be an interval of one year in between

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each spell of ordinary leave granted to the prisoner. The term 'spell' used both in the Proviso to Rule 22(2)(c) and Rule 22(3) has given rise to an ambiguity.

15. It is the stand of the respondents that since the petitioner has completed 18 years of imprisonment, he is no doubt entitled for 40 days of Ordinary Leave. He had last availed leave in April 2026 returning to prison on 29.04.2026. They interpret Rule 22(3) to say that a prisoner who has availed a spell of Ordinary Leave shall be eligible for the subsequent spell of Ordinary Leave only on completion of one year of imprisonment from the date of his return from the last spell of Ordinary Leave, interpreting the word 'spell' in both Rule 22(2)(c) and Rule 22(3) alike.

16. According to the respondents, the word 'spell' used in Rule 22(2)(c) has to be understood to mean the first instalment of the 40 day ordinary leave availed, as a result that there must be a gap of one year between the first and second instalments of 40 days Ordinary Leave available under Rule 22(2)(c).

17. They have cited the prevalent Prison Leave Rules in Rajasthan and Delhi, that read as follows:

> *"**RAJASTHAN:***
> *10. Parole Period - A prisoner, who has completed with remission, if any, one-fourth of his sentence and subject to good conduct in the Jail, may be released on first parole for twenty days including days of journey to home and back and for thirty days on second parole if his behaviour has been good during the first parole and for fourty days on third parole if his behaviour has been good during the second parole. If during the third parole also the prisoner has behaved well and his character has been*

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exceedingly well and if the prisoner's conduct has been such that he is not likely to relapse into crime, his case may be recommended to the Government through the State Committee for permanent release on parole if he has served two third of sentence including remission on such conditions as deemed fit by the State Committee. The State Government may, on recommendation of the State Committee, grant parole on such conditions as deemed necessary by it among them the main condition being that if the prisoner while on parole commits any offence or abets, directly or indirectly, commission of any offence, he has to undergo the unexpired portion of the sentence in addition to any sentence imposed upon him for such an offence. In case the permanent release on parole is rejected, the prisoner shall be eligible for release on parole for fourty days every year on the same conditions for the remaining period of his sentence:

Provided that the cases of prisoners who have been sentenced to imprisonment for life, for an offence for which death penalty is one of the punishments provided by law or who have been sentenced to death but this sentence has been commuted under section 433 of the Code of Criminal Procedure, 1973 into one of life imprisonment shall not be placed before the State Committee for permanent release on parole unless he has served fourteen years of imprisonment excluding remission, but including the period of detention during enquiry, investigation or trial. Such prisoners may be released on parole for fourty days every year for the remaining period of their sentence subject to the conditions as stated above.

Provided further that if a prisoner has not applied any regular periodic parole or not availed any regular parole for any reason shall not be disqualified for permanent parole.

Provided also that no second and subsequent release on parole, except release on permanent

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parole, shall be made unless eleven months have elapsed from the date of the expiry of the period of release on parole immediately preceding."

DELHI:

"1212. A convict would be released on parole for a period of maximum eight weeks in minimum two spells in a conviction year. However, the period of release in one spell should not be more than four weeks. There should be one month gap between parole and last furlough availed and vice-versa."

18. As fairly admitted by the respondents, these provisions do not help us in any way to understand the interplay, if any, between the proviso to Rule 22(2)(c) and Rule 22(3) of the Tamil Nadu Leave Rules.

19. In our considered view, the interpretation of the respondents would defeat the purpose of granting 40 days annual leave to a convict who is so eligible. Rule 22(1)(c) read with Rule 22(2)(c) entitles a prisoner, sentenced to imprisonment for a period exceeding 14 years and life, to 40 days leave per year, in two spells/instalments. Interpreting the word 'spell' in Rule 22(2)(c) in the manner the respondents suggest would force the prisoner to avail the entire leave of 40 days in one stretch as otherwise, he would be constrained to suffer a gap of one year between the two installments.

20. Certainly, this cannot be the intention behind the grant of 40 days leave and the facility permitting the prisoner to avail the leave in two instalments. The unfortunate situation has arisen by virtue of the use of the word 'spell' in both Rule 22(2)(c) and 22(3) and we hence clarify that the word

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'spell' in the proviso to Rule 22(2)(c) be read as 'instalment' to contradistinguish it from the word 'spell' used in Rule 22(3).

21. We further clarify that (i) the period of 40 days annual ordinary leave may be availed by an eligible prisoner in two instalments only within one year from the first day of the first instalment of such leave (ii) the spell of one year referred to in Rule 22(3) will apply from the last day of the second instalment, or if only one instalment of ordinary leave has been availed, from the expiry of one year from the last day of the first instalment of the leave.

22. In light of the discussion as above, we accept the challenge and allow this writ petition. We direct the authorities to grant leave of 14 days without escort to the convict on the following conditions:

(i) Respondents are directed to release the Convict Prisoner viz., S.Babu, S/o.Sami, aged 65 years, confined at Central Prison, Puzhal on Ordinary Leave for a period of 14 days i.e., from 13.10.2026 till 26.10.2026.

(ii) The Convict Prisoner shall be released on 13.10.2026 at 10.00 am and he shall surrender before the Central Prison, Puzhal on 27.10.2026 before 10.00 a.m.

(iii) The Convict Prisoner is directed to report before the N3 Muthiyalpettai Police Station at 11.00 am on every alternate day during the period of leave.

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(iv) The Convict Prisoner shall utilize the leave only for the ground on which it has been granted and shall not indulge in any other activities.

Connected miscellaneous petition is closed.

(A.S.M.,J.) (S.M.,J.)
12.10.2026

vs
Index: Yes
Speaking order
Neutral Citation: Yes

To

1. The Inspector General of Prison,
   Puzhal Range,
   Puzhal-600 066.

2. The Superintendent,
   Central Prison, Puzhal,
   Puzhal-600 066.

3. The Inspector of Police,
   N3, Muthiyalpettai Police Station.

4. The Public Prosecutor,
   High Court, Madras.

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