

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.1347 of 2020

Saibunisha

... Petitioner

Vs

The State represented by its,

1.The Secretary to Government of Tamil Nadu,  
Department of Home,  
Fort St.George,  
Chennai - 600 009.

2.The Additional Director General of Prison,  
C.M.D.A.Towers,  
Egmore,  
Chennai - 600 008.

3.The Superintendent,  
Central Prison,  
Kovai.

4.The National Commission for Women,  
Plot No.21, Jasola Institutional Area,  
New Delhi - 110025.

5.The State Commission for Women,  
PWD Estate, Chepauk,  
Triplicane, Chennai,  
Tamil Nadu - 600005.

(R4 and R5 are suo motu impleaded as per order  
in H.C.P.No.1347 of 2020 dated 14.08.2020)

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus directing the respondents to grant ordinary leave for 30 days to the detenu, Mohammed Zubair @ Sheik Janu, S/o.Sheik Mohideen, aged about 50 years, life convict prisoner, bearing Convict No.3243 detained at Central prison, Kovai.

For Petitioner : Ms.S.G.Vedha Priyadharshini.

For Respondents : Mr. R. Prathap Kumar,  
Additional Public Prosecutor.

**ORDER**

(Order of the court was made by N.KIRUBAKARAN.J.)

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The matter was heard through "Video Conference".

2.This Petition has been filed by the wife of the life convict viz., Mohammed Zubair @ Sheik Janu, S/o.Sheik Mohideen, aged about 50 years, who got married him when he came out on parole in the year 2007, seeking leave for 30 days for her husband to make arrangements for the livelihood of her family members.

3.Heard Ms.S.G.Vedha Priyadharshini, learned Counsel appearing for the Petitioner and Mr. R. Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4.When the matter is called today, report of the probation officer has been filed recommending 30 days leave to the convict which was sought by the petitioner. Taking into consideration of the probation officer's report and also the earlier orders passed by this Court granting leave to the convict without police escort, this Court is inclined to grant thirty days leave to the convict.

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5.Accordingly, the convict viz., Mohammed Zubair @ Sheik Janu, S/o.Sheik Mohideen, aged about 50 years, life convict prisoner, bearing Convict No.3243

detained at Central prison, Kovai is directed to be released on 01.10.2020 at 11.00 A.M. without police escort and the Convict is directed to surrender before the prison authorities on 30.10.2020 at 05.00 P.M. During the said leave period, the convict shall report before the concerned jurisdictional Police Station every monday and friday at 11.00 A.M. The relief sought for by the petitioner is answered in the above manner.

6.However, this Petition is kept pending for passing further orders since this Court has already suo motu impleaded the National Commission for Women and the State Commission for Women as respondents 4 and 5 in the above petition to devise a device mechanism by which it is ascertained as to whether women are getting married to the life convicts on their own accord or by force or coercion. Hence, this Court has raised a query as to whether the women marrying the life convicts are examined by the State Commission for women or National Commission for women to ascertain as to whether willingness of the marriage or sign for the acceptance of the marriage has been obtained from the women.

7.It is seen that in many cases, women are getting married to the life convicts and this Court is unable to find out as to how the consent of the women has been obtained. The rights of the women have to be safeguarded. Usually, no girl will come forward to marry a life convict. Nowadays, it is seen that it is difficult for a normal man to get married as modern girls are putting so many conditions for marriage. When that is so, it is unbelievable or surprising to see that a women on her own volition giving consent to marry a convicted person for a life without husband's companionship, love and care, which will amount to violation of human rights causing psychological and physiological effect on the lady and affecting her well being. Regarding the same, the National Commission for Women has already filed their response. The State Commission for Women has sought time. Hence, their response shall be circulated.

7.Post the matter for orders.

(N.K.K.,J.)

(P.V.,J.)

30.09.2020

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Index: Yes/No

Internet: Yes/No

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**Note: Issue order copy today i.e. on 30.09.2020**

**N.KIRUBAKARAN, J.**  
**AND**  
**P.VELMURUGAN, J.**

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To

1.The Secretary to Government of Tamil Nadu,  
Department of Home,  
Fort St.George,  
Chennai - 600 009.

2.The Additional Director General of Prison,  
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Egmore,  
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PWD Estate, Chepauk,  
Triplicane, Chennai,  
Tamil Nadu - 600005.

6.The Public Prosecutor,  
High Court of Madras,  
Chennai.

**H.C.P.No.1347 of 2020**

**Dated:30.09.2020**