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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.44/2015

Suresh s/o Namdeorao Bankar.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

.....
Shri R.S. Mubashir Ali, Advocate for petitioner.
Shri S.G. Karlekar, APP for respondent nos.1 to 3.
.....

**CORAM: S.S. SHINDE &
A.M. BADAR, JJ.**

DATE: 20.01.2015

ORDER :

- 1] Heard learned counsel for the parties.
- 2] This petition is filed with following prayer:-

"The petitioner prays to quash and set aside impugned order dated 30.12.2014 passed by the Respondent No.2 rejecting the application filed by the Petitioner for seeking death Parole leave for a period of 30 days and for that purpose issue necessary orders."

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3] Learned APP has tendered across Bar affidavit in reply. Upon reading the affidavit in reply, it appears that whenever the petitioner was released on earlier occasion either on furlough or parole, he reported back to the jail promptly within time. Therefore, the petitioner's past record is unblemished.

4] The grievance of the petitioner is that the mother of the petitioner has expired and he wishes to attend her last rites. However, the respondent - authorities have declined to grant parole on the ground that authenticity and report is yet to be received from the concerned Police Station.

5] The learned APP has placed reliance on the circular dated 15.5.2002 to refuse the prayer of the petitioner.

6] We have considered the grounds stated in the petition, annexures thereto and the affidavit in reply filed by the respondent - authorities. In the peculiar facts of this case, when the petitioner's past record is unblemished inasmuch as whenever he was released on parole or furlough, he reported back promptly within time, we are inclined to allow the prayer of the petitioner.

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7] In the result, the order dated 30.12.2014 is quashed and set aside. The respondent - authorities are directed to release the petitioner within two days from today. However, we make it clear that while releasing the petitioner, the respondent - authorities shall adhere to the procedure prescribed under the Rules.

8] The petition stands disposed of on above terms.

(A.M. BADAR, J.)

(S.S. SHINDE, J.)