

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
 AURANGABAD BENCH, AT AURANGABAD.**

Criminal Writ Petition No. 996 of 2015

Anil s/o. Dayabhai Parmar,
 Age : 37 years,
 Occupation : Nil,
 R/o. at present Central Prison,
 Aurangabad,
 District : Aurangabad.

.. Petitioner.

versus

1. The State of Maharashtra,
 Through Secretary,
 Home Department,
 Mantralaya, Mumbai - 32.
2. The Divisional Commissioner,
 Aurangabad Division,
 Aurangabad.
3. The Superintendent of Prison,
 Open Prison, Paithan,
 District : Aurangabad.
4. The Commissioner of Police,
 Thane.

.. Respondents.

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*Mr. A.M. Gaikwad, Advocate (Appointed), for the
 petitioner.*

*Mr. B.L. Dhas, Additional Public Prosecutor, for
 respondent nos.1 to 4.*

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(2)

Cri. W.P. No. 996 of 2015
& Cri. W.P. No. 1067 of 2015

With

Criminal Writ Petition No. 1067 of 2015

Anil Dayabhai Parmar,
Convict No. CN/4749,
Open District Prison,
Paithan,
District : Aurangabad.

.. Petitioner.

versus

The Divisional Commissioner,
Aurangabad Division,
Aurangabad.

.. Respondent.

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Petitioner presented the petition through Jail.

*Mr. B.L. Dhas, Additional Public Prosecutor, for the
respondent.*

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

DATE : 25TH AUGUST 2015

ORAL JUDGMENT (Per S.S. Shinde, J.) :

1. Both the petitions were presented by the petitioner (a convict & prisoner) through Jail. In Criminal Writ Petition No. 996 of 2015, Adv. Mr. A.M. Gaikwad was appointed to represent the cause of the petitioner. Today, he has tendered proper petition. Same is taken on record.

2. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

3. By Criminal Writ Petition No. 996 of 2015, the petitioner has prayed to quash and set aside the order dated 26-6-2015, passed by the Divisional Commissioner, Aurangabad, thereby rejecting application of the petitioner seeking parole. He has also prayed to direct the respondents to release him on parole. By Criminal Writ Petition No. 1067 of 2015, the petitioner has prayed for the same relief i.e. to grant him parole.

4. The learned Counsel appearing for the petitioner submits, that when the petitioner was released earlier on seven occasions, on furlough, not only that he reported within time, but also there was no untoward incident during the period when he was released. It is submitted that the reason given by the concerned Police Station, that in case, the petitioner is released, there may be problem of law and order situation, is general in nature and, therefore, when the petitioner is undergoing imprisonment in Open Jail, he deserves to be released on parole, on fulfilling other conditions than report submitted by the concerned Police Station.

5. The learned Additional Public Prosecutor fairly concedes, that whenever the petitioner was released on furlough, he reported back within time and also there was no any untoward incident as reflected in the report submitted by the Crime Branch on 17th April 2015, to the Divisional Commissioner, Aurangabad.

6. We have heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents - State and its authorities. We have also perused the pleadings in the petitions and annexures thereto, in particular, the order impugned in the petitions.

7. It appears that only on the ground that there may be possibility of breach of law and order and taking into consideration adverse report to that effect, the Divisional Commissioner has rejected the prayer of the petitioner to release him on parole for his own medical treatment. In fact, past record of the petitioner is unblemish, inasmuch as, he was released on furlough on seven occasions and he had reported back within time and there was no any untoward incident during the period in which he was released on furlough. It is admitted position, that he is a convict undergoing imprisonment in open prison. In that view of the matter, the petitions deserve to be allowed.

8. Accordingly, the petitions are allowed.

The impugned order dated 26-6-2015, passed by the Divisional Commissioner, Aurangabad, thereby rejecting application of the petitioner for parole leave, is hereby quashed and set aside. Respondent nos.2 to 4 are directed to re-consider the prayer of the petitioner for parole, in the light of observations made herein before and if he fulfills other conditions than mentioned in the impugned order and the report submitted by the concerned Police Station, he should be released on parole on furnishing P.R. Bond in the sum of Rs. 5,000/-. The respondents shall take decision

(5)

Cri. W.P. No. 996 of 2015
& Cri. W.P. No. 1067 of 2015

in the matter, as indicated above, within a period of two weeks from today.

9. Rule is made absolute in the above terms. Both the petitions stand disposed of accordingly.

(A.M. BADAR)
JUDGE

(S.S. SHINDE)
JUDGE

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