

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3367 OF 2015
WITH
CRI. APPLICATION NO. 507 OF 2015
IN
CRI. WRIT PETITION NO. 3367 OF 2015**

Satish Ramchandra Bhojane
C/ 6397 presently lodged in
Kolhapur Central Prison, Kalamba
Kolhapur-7

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

....

Mrs. Nasreen S.K. Ayubi Advocate for Petitioner
Mr. H.J. Dedhia A.P.P. for the State

....

**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J. &
DR.SHALINI PHANSALKAR-JOSHI, J.**

DATED : DECEMBER 21, 2015

ORAL ORDER [PER SMT.V.K.TAHILRAMANI, ACTING C.J.]:

1 As the petition and the application have been preferred through jail, we appoint advocate Ms. Nasreen S.K. Ayubi who is on the panel of the High Court Legal Services Committee, to represent the petitioner in this petition and in the application.

2 Heard Mrs. Nasreen S.K. Ayubi, the learned counsel for the petitioner and Mr. Dedhia, the learned A.P.P. for the State. Rule. By consent, Rule is made returnable forthwith and the petition is taken up for final hearing.

3 The petitioner has preferred application for parole on the ground of illness of his wife which came to be rejected on 15.4.2014. To the writ petition, the petitioner has annexed two medical certificates, one is of the year 2010 and the other medical certificate is of the year 2011. They are dated 21.11.2010 and 11.1.2011 respectively. The certificates state that the wife of the petitioner is suffering from "dysfunctional uterine bleeding and chest pain" and she "may" require medical treatment.

4 To the application, the petitioner has annexed two medical certificates, one medical certificate is of the year 2013 and the other medical certificate is of the year 2014. They are dated 5.11.2013 and 6.12.2014. The medical certificate dated 5.11.2013 shows that it pertains to the petitioner himself and not wife of the petitioner. It is pertinent to note that parole

was sought on specific ground that the wife of the petitioner is ill, hence, it was not possible to take this certificate into consideration. As far as the medical certificate dated 6.12.2014 is concerned it shows that the wife of the petitioner was suffering from "lower abdominal pain with dysfunctional uterine bleeding and severe backache". From the certificate dated 6.12.2014 it does not appear that the illness of the wife of the petitioner is serious. It does not appear from these two certificates that illness of the wife of the petitioner was so serious so as to release the petitioner on parole. In view of these facts and the other facts, the application of the petitioner for parole came to be rejected, hence, we cannot find any error in the order rejecting the application for parole.

5 Thereafter the petitioner has annexed another medical certificate dated 25.5.2015 issued by the Medical Officer Primary Health Center Borale in relation to medical problem of his wife. However, it is seen that this certificate was not before the authorities when the application for parole was rejected by the concerned authority on 15.4.2014. Today, it is not possible to rely on medical certificates of the year

2010, 2011, 2013 and 2014 which have been relied upon by the petitioner. In case, as of today the wife of the petitioner is suffering from any medical problem or there is any other ground on which the petitioner can seek parole, it would be open to the petitioner to prefer a fresh application for parole. If such an application for parole is preferred by the petitioner, the concerned authority shall decide the same as expeditiously as possible. Thus, no interference is called for. Rule is discharged. Petition is disposed of accordingly. Office to communicate this order to the petitioner who is in Kolhapur Central Prison.

6 In view of the above, Criminal Application No. 507 of 2015 does not survive and is disposed of accordingly.

7 Legal fees of appointed advocate shall be paid as per Rules.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]