

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.289 OF 2015

Shivkumar Ghanshamji Jamunpane

:: VERSUS ::

The Divisional Commissioner, Nagpur Division, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

**Ms. S.B. Saikhede, Counsel for the Petitioner
(Appointed).
Mrs. N.R. Tripathi, APP for the Respondents.**

**CORAM : A. B. CHAUDHARI &
P.N. DESHMUKH, JJ.**

DATE : APRIL 27, 2015

1. Heard learned counsel appearing for both the parties.

2. The petitioner has approached this Court being aggrieved by impugned order dated 4.3.2015 passed by respondent No.1 / Divisional Commissioner, Nagpur Division, Nagpur, whereby the application filed by the petitioner for grant of Parole leave of thirty days, as regards illness of his father, has been rejected.

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3. We have heard Ms. S.B. Saikhede, learned counsel (appointed) for the petitioner, Mrs. N.R. Tripathi, learned Additional Public Prosecutor for the respondents so also gone through the affidavit-in-reply filed on behalf of respondent No.1.

4. It has been noted in affidavit-in-reply that the petitioner is undergoing sentence for life imprisonment for the offence punishable under Section 302 of the Indian Penal Code. It is to be noted that the petitioner has applied for Parole leave through the Nagpur Central Prison as regards illness of his father. The Authority, considering the medical documents submitted by the petitioner to his application for grant of Parole leave, found that the petitioner's father was an outdoor patient and not at all suffering from any serious illness.

Moreover, in affidavit-in-reply it is further noted that earlier when the petitioner had been granted

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furlough leave, he had overstayed for 47 days and on one occasion he was required to be arrested to bring back after 73 days. Resultantly, the application of the petitioner for grant of Parole leave came to be rejected by the impugned order.

5. The Division Bench of this Court in the cases of **Murlidhar Ramchandra Bhalerao ...vs... State of Maharashtra and another**, reported at **2011 All MR (Cri) 2132** and **Ramchandra Raghu Naik ...vs... State of Maharashtra**, reported at **2005 All MR (Cri) 1919** has taken a view that if a prisoner does not return back to the custody and is required to be arrested by the Police for securing his custody, such a prisoner is not entitled to the benefits of Rule 4 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

6. In view of the view taken by the Division Bench of this Court in the cases cited *supra*, we find that the

petitioner is not entitled for grant of Parole leave.

7. In that view of the matter, since we find no reason to interfere with the impugned order, this Court passes the following order :

ORDER

i) Criminal Writ Petition No.289 of 2015 is dismissed.

ii) The fees payable to the learned Counsel for the petitioner (appointed) are quantified at Rs.1,500/- (Rupees One Thousand Five Hundred Only).

JUDGE

JUDGE

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