

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

CRIMINAL WRIT PETITION NO. 680 OF 2016

Rameshwar Shivram Jadhav	..	Petitioner
	Versus	
The State of Maharashtra	..	Respondent

Mrs. S.K. Doke, Advocate (appointed) for petitioner.
Mr. R.B. Bagul, A.P.P. for respondent/State.

**CORAM : A.V.NIRGUDE &
A.I.S.CHEEMA, JJ.
DATED : 14.06.2016**

P.C. :-

1. This petition challenges order dated 4th May, 2016, passed by the Superintendent of Police of Aurangabad Central Jail, rejecting petitioner's application seeking parole leave on account of his father's death.

2. The petitioner is undergoing sentence and is confined in Aurangabad Central Jail. It is his case that on 29th April, 2016, he learnt telephonically from his relatives that his father had died. On the same day, the petitioner moved an application for parole leave under Rule 19 of the Prisoners (Bombay Furlough & Parole) Rules, 1959. As said above, his application was rejected on the ground that the application for parole leave was moved belatedly after the date of death of petitioner's father.

3. The impugned order indicates that after the application was moved on 29th April, 2016, the prison authority started enquiry as to whether the petitioner's father died. It was learnt rather belatedly that his father had died on 14th April, 2016 and not on 25th April, 2016 as stated by the petitioner. The Superintendent of Police placed reliance on a notification in which it is provided that if an application is moved for parole leave beyond 10 days of death of close relative, there would be no provision for releasing him on parole leave.

4. The view taken by the learned Superintendent of Police does not appear in consonance with Rule 18 & 19 of the said Rules. Rule 18, sub-rule (2) of said Rules provides that the Superintendent of police shall be competent authority to release the convicted prisoner on parole not exceeding 15 days in case of death of his close relatives like father etc. In these rules, there is no mention about time limit. Nonetheless, we are of the view that a person must make such application as soon as he learnt about death of his close relatives.

5. In this case, the petitioner clearly stated that he learnt about his father's death on 29th April, 2016 and on the same day he moved application. No affidavit came on record to falsify the petitioner's statement. In-fact, the impugned order indicated that the prison authority tried to verify truthfulness of the petitioner's case and it was found that the petitioner's father indeed died albeit a few days

prior to the date of application.

6. Therefore, the Criminal Writ petition deserves to be allowed. Hence, the Criminal Writ Petition succeeds and same is allowed in terms of following order :-

7. The Superintendent of Police, Central Prison, Aurangabad, shall allow petitioner's application for parole leave for not more than 14 days on usual conditions.

8. The Criminal Writ Petition is accordingly allowed and disposed of.

9. Mrs. S.K. Doke, learned Counsel for the petitioner who was appointed as amicus curie shall be paid her professional fees as per rules.

[A.I.S.CHEEMA, J.]

[A.V.NIRGUDE, J.]