

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

CRIMINAL WRIT PETITION NO.1576 OF 2016

Rameshwar s/o. Shivram Gaikwad,
Age: 32 years, Occu: Laborer,
R/o. Kanegaon, Ta. Lohara,
Dist. Osmanabad
Presently under going sentence
at Central Jail Harsul,
Aurangabad [Convict No.7471] **PETITIONER**

VERSUS

1. The State of Maharashtra
Through Chief Secretary,
Home Department, Mantralaya,
Government of Maharashtra,
Mumbai.
2. The Superintendent of Central
Jail Harsul, Aurangabad. **RESPONDENTS**

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Mr.S.A.Gaikwad, Advocate for the Petitioner
Mr.P.G.Borade, APP for Respondent/State

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**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Reserved on : 21.12.2016
Pronounced on : 23.12.2016

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

1. Heard.

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

3. This Writ Petition is filed with the following prayer:

b. By issue of appropriate writ, order or direction the respondent no.2 be directed to accept the cash surety of Rs.5000/- of the petitioner and release the petitioner on death parole for 14 days.

4. The learned counsel appearing for the petitioner submits that in similar set of facts the Division Bench of this Court [Coram: S.V.Gangapurwala & V.K.Jadhav, JJ.] in Writ Petition No.1349/2015 [Vinod @ Narhari Bapurao Sontakke Vs. The State of Maharashtra] is allowed the prayer of the petitioner therein and directed the respondent to release the petitioner therein on furnishing cash security and personal bond

with imposing condition as laid down in Rule 10 of the Prison [Bombay Furlough and Parole] Rules, 1959. The learned counsel also pressed into service exposition of law in the case of *Chimanrao Baberao Father of Prisoner Dattarao Chimanrao Vs. State in Special Criminal Application No.653 of 1984 decided on 5th December, 1984 [Gujrath High Court]* and in the case of *Natia Jiria Vs. State of Gujarat and Ors.*¹ and submits that the petitioners therein were directed to be released on furnishing cash security and personal bond. Therefore, the learned counsel appearing for the petitioner submits that the petition may be allowed.

5. On the other hand, the learned APP appearing for the respondent – State submits that the petitioner is not able to furnish surety, therefore, the petitioner cannot be released on death parole for 14 days.

1 1984 Cri.L.J.936

6. We have considered the rival submissions of the learned counsel appearing for the parties. With their able assistance of the learned counsel appearing for the parties, perused the grounds taken in the petition, annexures thereto and also the judgments in the cases of Vinod @ Narhari Bapurao Sontakke Vs. The State of Maharashtra [cited supra], *Chimanrao Baberao Father of Prisoner Dattarao Chimanrao Vs. State* [cited supra] and in the case of *Natia Jiria Vs. State of Gujarat and Ors.* [cited supra]. It appears that the petitioner is undergoing imprisonment in Central Jail Harsul, Aurangabad. It appears that the father of the petitioner namely Shivram Shripati Gaikwad died on 14th April, 2016. Therefore, the petitioner, after receiving the message of death of his father, applied for death parole before respondent no.2 i.e. the Superintendent of Central Jail, Harsul,

Aurangabad. We have carefully perused the order passed by respondent no.2, it appears that the prayer of the petitioner for releasing him on death parole is favourably considered and he was ordered to be released on death parole subject to fulfillment of the conditions, which are mentioned in the said order. There is a condition that the relatives of the petitioner shall stand as surety, however, it is the case of the petitioner that nobody is ready to stand as surety. It appears from the perusal of the impugned order that in the past the petitioner was released on furlough twice and reported back to the Jail Authorities on his own. It is true that there was one day delay on one occasion and on another occasion 32 days delay in reporting back, however, fact remains that the petitioner on his own reported back to the Jail Authority.

7. In that view of the matter, for the same reasons, which are assigned in the cases of *Vinod @ Narhari Bapurao Sontakke Vs. The State of Maharashtra, Chimanrao Baberao Father of Prisoner Dattarao Chimanrao Vs. State and Natia Jiria Vs. State of Gujarat and Ors. [cited supra]*, we pass the following order:

ORDER

- i] The respondent authorities shall release the petitioner on death parole for 14 days on his furnishing personal bond and cash security of Rs.10,000/- [Rs.Ten Thousand only] and shall impose a condition that he shall reside within the limits of Lohara Taluka in Osmanabad District. Further condition should be imposed that he shall report to the concerned Police Station on every alternate day during his release on

death parole and on completion of the said period of 14 days, he shall report to the Jail Authority.

ii] Rule is made absolute on above terms. The Writ Petition is allowed to above extent and same stands disposed of.

Sd/-
[P . R . B O R A]
JUDGE

Sd/-
[S . S . S H I N D E]
JUDGE