

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1246 OF 2016

Anant Chandu Wake

... Petitioner

Vs.

Home Department

Government of Maharashtra & 3 Others.

... Respondents

Mr.S.R. Mithare, for the Petitioner

Mr.H.J. Dedia, APP, for Respondent – State

CORAM: **SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: **JULY 18, 2016**

P.C.:

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner preferred an application for parole on the ground of illness of his son. It was stated that his son was suffering from Acute Appendicitis. The said application came to be rejected. Being aggrieved thereby, the petitioner preferred appeal. The said appeal came to be dismissed by order dated 26.8.2015. Hence, this petition.
4. The application for parole came to be rejected on two grounds. The first ground was that witnesses have taken objection to the petitioner being released on parole and the second ground is that if the petitioner is

released on parole, there is possibility of threat to law and order. These are the only two grounds for rejecting the application of the petitioner for parole. It is pertinent to note that the genuineness of the medical certificate submitted by the petitioner was not doubted. The jail record of the petitioner shows that in 2009, when he was released on parole, he reported back to the prison in time. In 2010, when the petitioner was released on parole, he reported back to the prison on his own. However, there was a delay of two days on his part of reporting back to the prison. Thereafter, in the year 2011, the petitioner was again released on parole. On this occasion, he reported back to the prison in time. In 2012, the petitioner was again released on parole. He reported back to the prison on his own. However, there was delay of two days in reporting back to the prison. Thus, it is seen that out of four occasions when the petitioner was released on parole, on two occasions, he surrendered to the prison in time and on two occasions, again, he surrendered back to the prison on his own, though after a delay of two days. On none of the four occasions that the petitioner was released on parole, there was any complaint made by any witness regarding the petitioner. There was no complaint by any witness that the petitioner or anyone on his behalf had threatened him when the petitioner was released on parole. Thus, we find the first ground on which the application of the petitioner for parole was rejected is unfounded. So also, looking to the above facts, we find that the second

ground on which the application for parole came to be rejected is without any basis.

5. Learned Counsel for the petitioner has produced the latest medical certificate relating to his son. This shows that the petitioner is suffering from Acute Chronic Appendicitis and he needs Appendectomy as early as possible i.e., he needs surgery to remove the appendix as soon as possible. This certificate is dated 12.7.2016. The genuineness of this certificate is not doubted by the prosecution.

6. In this view of the matter, we are inclined to release the petitioner on parole, hence, the following order:

ORDER

The petitioner be released on parole for a period of 30 days on the usual terms and conditions as set out by the jail authorities.

7. Rule is made absolute in the above terms.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)