

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2515 OF 2016

Pankaj Bhagwat Giri ... Petitioner

Vs.

The State of Maharashtra ... Respondent

Mr.Vilas N. Mali, for the Petitioner
Mr.H.J. Dedia, APP, for Respondent - State

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

DATE: **AUGUST 2, 2016**

ORAL JUDGMENT (PER SMT.V.K. TAHILRAMANI, J.):

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner is praying for parole on the ground that he has Carcinoma of Tongue. The learned Counsel for the petitioner states that the petitioner had preferred an application for parole but it was rejected. However, it is seen that the said application was made on the ground of illness of his mother. As far as prayer for release on ground that the petitioner has carcinoma is concerned, It is seen that the petitioner has directly approached the High Court. Applications for parole are to be made to the Divisional Commissioner. He is the competent authority to decide

the applications for parole. Thus, it is seen that the petitioner has an alternate and efficacious remedy of preferring the application for parole to the Divisional Commissioner. The Constitution Bench of the Supreme Court in the case of **Thansingh Nathmal and others Vs. Superintendent of Taxes Dhubri**¹, has observed that when there is an alternate remedy, writ petition should not be entertained.

4. Thereafter, the learned Counsel for the petitioner submitted that in cases of parole, a person can directly approach the High Court. He relied on the decision of the Supreme Court in the case of **Sunil Fulchand Shah vs. Union of India and others**². However, on going through the said decision, it is seen that it concerns a case of preventive detention under COFEPOSA Act. The present case is not a case of preventive detention but it is a case of simple parole being sought by the convict. Hence, this decision cannot be made applicable to the facts of the present case.

5. As stated earlier, the petitioner has an alternate and efficacious remedy of preferring an application for parole to the concerned authority. In this view of the matter, we are not inclined to interfere. Rule is discharged.

6. However, if the petitioner prefers an application for parole, the said application is to be decided as expeditiously as possible by the concerned

1 AIR 1962 SC 1419

2 AIR 2000 SC 1023

authority. In this view of the matter, we are not inclined to interfere. Rule is discharged.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)