

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

CRIMINAL WRIT PETITION NO. 661 OF 2017

Nanasaheb S/o Chatrabhuj Shinde,
Convict No.C-10806,
Nashik Road Central Prison,
Nashik.

Petitioner...

Versus

1. The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai.
2. The Divisional Commissioner,
Nashik Division, Nashik.
3. The Superintendent,
Nashik Road Central Prison, Nashik.

Respondents...

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Ms Sheetal E Waghmare, Advocate (appointed) for representing the
petitioner

Mr S. R. Yadav, APP for respondent/State

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**CORAM : S.P. DESHMUKH &
A. M. DHAVALA, JJ.**

DATE : 28TH JUNE, 2017.

ORAL JUDGMENT (Per A. M. Dhavale, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with
the consent of the respective parties.

2. By this petition, a prisoner is seeking directions under Article 226 of the Constitution for issuing writ for releasing him on parole.

3. The petitioner was convicted u/s 376-D of the Indian Penal Code on 14.07.2016, by Sessions Court, Ambajogai. He was under trial from 18.01.2015. On 19.09.2016, the petitioner's mother died. He filed an application for Death Parole on 26.09.2016 and the report of Police verification was received on 29.09.2016. The Assistant Superintendent of Police, Sub-Division, Ambajogai, has given no objection for death parole. The Superintendent, Nashik Road Central Prison, Nashik, by order dt. 29.09.2016, refused to grant death parole on three grounds, which read as under:

- (i) The period of detention was only one year and seven months.
- (ii) The petitioner was convicted for serious offence u/s 376-D of the IPC.
- (iii) The death parole can be granted within 10 days of death as per Govt. Resolution dt. 15.05.2000.

4. Heard Ms Sheetal E Waghmare, ld. Advocate (appointed) for the petitioner and Mr S. R. Yadav, ld. APP for respondent/State.

5. The petitioner had applied for death parole as his mother died on 19th September 2016. As per Government Resolution dated 15th May 2000, emergency parole on account of death can be granted for a period of seven days and within ten days from the date of death. Since Divisional Commissioner received report of Police on 28th January 2017, the period of ten days was already over. Therefore, emergency parole was rejected on 29th September 2016. Since emergency parole is granted for specific purpose of attending the last rites, performed within ten days from the date of death, the petitioner cannot be granted emergency parole on the ground of death of his mother after ten days are over.

6. In view of above, the impugned order is justified and it is unnecessary to go into the validity of other grounds on which the application was rejected. Hence, the petition is rejected. Rule is discharged.

7. Fees payable to the learned Advocate Ms Sheetal E Waghmare, appointed for representing the petitioner, is quantified at Rs. 5,000/- (Rupees Five Thousand only).

[A. M. DHAVALA]
JUDGE

[S.P. DESHMUKH]
JUDGE