

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 573 OF 2017

Suhas Mahadev Roge ... Petitioner
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr.Karan Bhosale i/b. Mr.Santosh S. Musale for the Petitioner.
Mr.J.P. Yagnik, Asst. Public Prosecutor for the State.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 15th FEBRUARY, 2017.

P.C. :

1] Heard Mr.Bhosale, learned counsel for the Petitioner and
Mr.Yagnik, learned Asst. Public Prosecutor for the State.

2] This petition is filed challenging the validity of the Government Resolution dated 26.8.2016 and seeking extension of the parole for the period of 90 days.

3] At the outset, Mr.Bhosale, learned counsel for the Petitioner, states that he is not challenging the validity of the Government Resolution dated 26.8.2016. Statement Accepted.

4] By the order dated 30.12.2016 passed by the Divisional Commissioner, Pune, the Petitioner was granted parole for the period of 45 days from 31.12.2016. Said period has expired on 14.2.2017. The Petitioner, meanwhile, has made three applications on various dates i.e. 17.1.2017, 20.1.2017 and 8.2.2017 before Respondent No.2-Divisional Commissioner, for the extension of the parole. However, these applications are not yet decided. The Petitioner is, therefore, constrained to approach this Court, as parole granted earlier was due to expire on 14.2.2017. Mr.Bhosale, learned counsel for the Petitioner has drawn our attention to the Certificate dated 14.2.2017 of Dr.M.K.Mundada and states that the Petitioner's wife Mrs.Nayana is suffering from Intramural Multiple Fibroids and Menorrhagia and she was placed under conservative treatment from 16.1.2017. The Certificate further reveals that in-spite of conservative medical treatment of four weeks, the petitioner's wife is not recovered, so she is advised surgical treatment i.e. hysterectomy.

5] Mr.Bhosale, learned counsel for the Petitioner submits that there is no one to look after his ailing wife. Therefore, the Petitioner's extension of the parole would be necessary, especially

when his wife is required to undergo medical surgery.

6] Mr.Yagnik, learned Asst. Public Prosecutor for the State submits that the Petitioner along with his family and brother are residing on the address, which is given by the Petitioner in the petition. This assertion, however, is contested by Mr.Bhosale, learned counsel for the Petitioner and he states that the Petitioner's brother is staying at Panvel and he has to look after his minor children. The Petitioner with his wife and daughter are residing at Malbar Hill and, therefore, it is not possible for the Petitioner's brother to look after the Petitioner's ailing wife. In support of his contention Mr.Bhosale, learned counsel for the Petitioner has also relied upon the additional affidavit filed by the Petitioner on record.

7] Mr.Bhosale, learned counsel for the Petitioner has strongly relied upon the provisions of the Amended Rule 19 of Maharashtra Prisons Bombay Furlough Parole Rules 1959. As per the Amended Rule 19, the prisoner shall be eligible for maximum of 45 days of parole in a year which can be extended upto 60 days once in three years, only under exceptional circumstances. He submits that if the Petitioner is now granted extension of parole of 15 days, the

Petitioner will not claim similar extension for the period of next three years. Statement accepted.

8] Mr.Bhosale, learned counsel for the Petitioner, having taken instructions from the Petitioner, who is present in the Court, submits that the Petitioner is ready and willing to give undertaking that he will surrender with the Authority after the extended period of 15 days.

9] In the above circumstances, in the interest of justice and especially to enable to the Petitioner to look after his ailing wife, who is advised to undergo the surgery, we extend the parole granted to the Petitioner for 15 days from 14.2.2017.

10] The Petitioner shall surrender with the Prison Authorities on 1.3.2017. Earlier surety bond executed by the Petitioner's brother shall continue in force during the extended period of the parole.

11] Subject to above, Writ Petition is disposed of.

12] All concerned to act on the basis of the authenticated copy of this order.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]