

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3294 OF 2017

Suresh Shankar Sawant,]
Age : 52 Years, C-6503,]
R/of Brahmanwadi, Post Gojegaon,]
District Satara.]
Presently lodged at Kolhapur Central]
Prison, Kalamba, Kolhapur] Petitioner

Versus

1. The State of Maharashtra]
]]
2. The Secretary, Home Department,]
Mantralaya, Mumbai – 400 032.]
]]
3. Divisional Commissioner,]
Pune Division, Council Hall,]
Pune – 411 001.]
]]
4. Senior Police Inspector,]
Satara Police Station, Satara.]
]]
5. Sub-Divisional Police Officer,]
Satara City Division, Satara.]
]]
6. Superintendent of Prison,]
Kolhapur Central Prison,]
Kalamba, Kolhapur.] Respondents

Mrs. Farhana Shah for the Petitioner.

Mrs. G.P. Mulekar, A.P.P., for the Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.**

DATE : 28TH SEPTEMBER, 2017.

ORAL JUDGMENT : [Per Smt. V.K. Tahilramani, J.]

1. Heard both sides.
2. The Petitioner preferred an application for parole on 20th July 2016 on the ground of illness of his wife. The said application was rejected by order dated 28th October 2016. Being aggrieved thereby, the Petitioner preferred an Appeal. The Appeal was dismissed by order dated 15th February 2017; hence, this Petition.
3. The application of the Petitioner for parole came to be rejected only on the ground that, if the Petitioner is released on parole, there would be danger to the life of the witnesses, including the son of the Deceased. As far as the appellate order is concerned, it stated that, in view of the Notification dated 26th August 2016, a Prisoner should have completed three years of imprisonment after conviction, only then he will be eligible to be released on parole.
4. As far as the appellate order is concerned, it is an admitted fact that the application of the Petitioner is dated 20th July 2016. Hence, the Notification dated 26th August 2016 cannot be made retrospectively applicable to the application of the Petitioner, which was made on 20th July 2016. Hence, the appellate order is set aside.

5. As far as the order of rejection is concerned, the learned counsel for the Petitioner submitted that the Petitioner, during the period of parole, will reside at his cousin brother's house, namely, *Rajaram Namdev Chavan*, who resides at “*At Post : Ekambe, Taluka Koregaon, District Satara*” and the said residence is within the jurisdiction of Koregaon Police Station, District Satara; whereas, '*Brahmanwadi*' is more than 18 kms. away from '*Ekambe*'.

6. In this view of the matter, we are inclined to set aside the order of rejection and direct that the Petitioner be released on parole on usual terms and condition, as set out by the Jail Authorities, including the fact that one of the conditions will be that the Petitioner will not reside in “*Bramhanwadi*”, but he will reside at “*At Post : Ekambe, Taluka Koregaon, District Satara*”.

7. Writ Petition is allowed.

8. Rule is made absolute in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[SMT. V.K. TAHILRAMANI, J.]