

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3741 OF 2017

Atul Ashok Deshmukh .. Petitioner
Vs.
Principal Secretary,
Home Department,
Government of Maharashtra and ors. .. Respondents

Mrs.Pooja R. Thakur, for the Petitioner.
Mr.Arfan Sait, APP for State.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

12th OCTOBER, 2017

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

1. Heard both sides.
2. The petitioner earlier had preferred an application for parole on the ground of illness of his mother. The said application was rejected by an order dated 23/09/2016. Being aggrieved thereby, the petitioner preferred an Appeal. The Appeal was dismissed by order dated 13/02/2017. Being aggrieved thereby, the petitioner preferred Criminal Writ Petition

No. 978 of 2017 before this Court. The order dated 13/02/2017 shows that no medical reports were submitted to support the claim of the petitioner that his mother was ill. Hence, his application for parole came to be rejected. Learned Counsel for the petitioner had at that time stated that due to oversight, medical papers could not be submitted to the competent authority. In this view of the matter, this Court disposed of the said Writ Petition by observing that the petitioner be given an opportunity to prefer a fresh application for parole annexing thereto fresh medical certificate and the papers relating to the medical tests undergone by the mother of the petitioner and/or papers relating to treatment if any undergone by her.

3. Thereafter it is seen that the petitioner did not prefer an application for parole before Divisional Commissioner, Nashik that is the first authority competent to consider the application for parole, but instead the application was made directly to the Appellate Authority i.e. Government. The said application came to be rejected by order dated 07/07/2017. Hence, this Petition.

4. Learned APP pointed out that the petitioner had also preferred an application for furlough which was rejected. In connection to the said application, the petitioner had preferred Criminal Writ Petition No. 2370 of 2017 before this Court. This Court by order dated 05/10/2017 directed that the petitioner be released on furlough for a period of 14 days. Learned APP further drew our attention to the notification dated 26/08/2016 wherein it is stated that the prisoner shall be eligible for subsequent relief of parole after completion of six months of actual imprisonment to be counted from his last return either from furlough or regular parole. Thus, it is seen that the petitioner cannot be released on parole at this stage and it would be open to the petitioner to prefer a fresh application for parole as and when he becomes eligible to be released on parole. In view of the above, no case is made out for interference. Rule is discharged.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)