

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3763 OF 2017

Ramkrishna Narsimha Gawda	.. Petitioner
Vs.	
The State of Maharashtra	.. Respondent

Ms.Rohini M. Dandekar, for the Petitioner.
Mrs.G.P. Mulekar, 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 preferred an application on 05/11/2016 seeking death parole on the ground that his mother has expired on 21/8/2016. The said application was rejected by order dated 20/03/2017. Being aggrieved thereby, the petitioner preferred an Appeal. The Appeal was dismissed by order dated 13/06/2017.

3. The application of the petitioner for death parole

came to be rejected on the ground that there would be no possibility of the petitioner returning to the jail if he is released on death parole. 2nd ground is that the petitioner does not have any important work to avail parole leave.

4. As far as 1st ground is concerned, it is seen that on 09/11/2013, the petitioner was released on parole and he has reported back to the prison on his own one day prior to the date that he was supposed to report back to the prison. This shows that the petitioner does not have any tendency of absconding. Hence, 1st ground for rejection is without any basis.

5. As far as 2nd ground is concerned that he does not have any important work to avail parole leave, the fact that his mother has expired and some religious rites would be necessary to be conducted would be a sufficient ground.

6. The Appellate order dated 13/06/2017 shows that the mother had expired on 21/8/2016, hence, 9 months thereafter he could not be granted parole to conduct religious

rites. As far as this ground is concerned, it is seen that an application for parole has to be decided within 45 days. It is the Authority which took time from 05/11/2016 to 13/06/2017 to decide the application of the petitioner for death parole. The Authority cannot take advantage of their own delay. We do not find this also to be a good ground to not to allow the petitioner to be released on parole.

7. Looking to the facts and circumstances, on humanitarian ground, we are inclined to release the petitioner on death parole for a period of 7 days. The petitioner to be released on death parole for 7 days on the usual terms and conditions as set out by the jail authority. Rule is made absolute in the above terms.

8. Office to communicate this order to the petitioner who is in Nashik Road Central Prison as well as Divisional Commissioner, Nashik.

(M.S.KARNIK, J.)

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