

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

Criminal Writ Petition No. 00547 of 2018

District : Beed

Pradip Lalasaheb Bansode
(C-10303),
Age : 32 years,
Occupation : Nil,
R/o. At present in jail.

.. Petitioner.

versus

1. The State of Maharashtra,
Through Chief Secretary,
Home Department,
Mantralaya, Mumbai - 32.

2. The Superintendent,
Central Jail,
Nashik.

.. Respondents.

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Ms. Shubhangi D. More, Advocate, for the petitioner.

*Mr. S.W. Munde, Addl. Public Prosecutor, for
respondent nos.01 and 02.*

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**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 03RD MAY 2018

ORAL JUDGMENT [Per Smt. Vibha Kankanwadi] :

Heard learned Advocate for the petitioner
and the learned Addl. Public Prosecutor for the
respondents.

02. By the present petition, the petitioner - convict no. C/10303 is challenging the order dated 21.11.2017, passed by the Divisional Commissioner, Nashik Division, Nashik, thereby rejecting the prayer of the petitioner seeking parole leave. The petitioner has also sought direction to the respondent - authorities to grant parole leave to the petitioner for medical aid and treatment to his father.

03. The prayer of the petitioner seeking parole leave was rejected on the grounds viz. (a) As the petitioner was not earlier released on leave, his conduct could not be ascertained during leave period, (b) There was a police report, that as there was code of conduct prevailing on account of village *panchayat* elections, conduct of the petitioner could not be ascertained, and (c) Medical Officers in the prison had verified the medical certificate tendered by the petitioner and found therein, that the ailment '*may be serious in future*', meaning thereby, illness was not serious at the relevant time.

04. Learned Advocate appearing for the petitioner submits, that the grounds for rejection of parole leave are vague and unsustainable. She submits, that no specific instances have been attributed in the police report as the petitioner was not earlier released on leave. The ground of having code of conduct on account of election is also untenable. She has, therefore, urged that the

petition be allowed and the petitioner may be released on parole leave.

05. Learned Addl. Public Prosecutor appearing for the respondents has vehemently opposed the petition and supported the impugned order.

06. When there was no occasion for the respondent - authorities to observe conduct of the petitioner during leave period because he was not earlier released on leave, the ground in that respect is vague and unsustainable. The ground in respect of code of conduct on account of election is also untenable. Now, the said elections might have been completed. Even otherwise, the said ground was vague and based on mere apprehension. As regards, the medical certificate tendered by the petitioner, though according to the medical officers of the prison, illness of the father of the petitioner may not be serious, still father of the petitioner may have need and assistance of the petitioner.

07. In the facts and circumstances of the case, learned Advocate for the petitioner has made out a case for grant of relief as prayed in the petition.

08. In the result, the criminal writ petition is allowed.

The impugned order dated 21.11.2017, passed by the Divisional Commissioner, Nashik Division, Nashik,

is quashed and set aside. The petitioner is directed to be released on parole leave, as per entitlement under the Prisons (Bombay Furlough and Parole) Rules, 1959, as expeditiously as possible, after complying all necessary formalities.

(Smt. Vibha Kankanwadi)
JUDGE

(Prasanna B. Varale)
JUDGE

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