

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1067 OF 2018

Pradip O'liver Dmello

...Petitioner

Versus

Principal Secretary,
Home Department & Ors.

...Respondents

Mrs. Pooja R. Thakur for Petitioner.

Mrs. G. P. Mulekar - APP for State - Respondents.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 07 JUNE 2018

ORAL JUDGMENT:(Per:SMT. V.K.TAHILRAMANI, Acting C.J.)

1] Heard both sides.

2] The petitioner preferred an application for parole on 16th March 2017 on the ground of illness of his mother. The application was rejected by order dated 12th May 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 18th January 2018, hence this petition.

3] The application of the petitioner for parole came to be rejected on the ground that his appeal against his conviction and sentence is pending before a higher forum. This was in view of the notification dated 26th August 2016. The second reason for rejecting the application of the petitioner for parole is that he reported back to the prison after a delay of 42 days. Hence, it is apprehended that if the petitioner is granted parole, he will not report back to the prison in time. The third reason is that in the family of the petitioner there are two sisters and one small brother who can take care of the mother.

4] As far as the first ground is concerned, the rule that if the appeal of the prisoner against his conviction and sentence is pending before a higher forum he will not be eligible for parole or furlough has now been deleted by notification dated 16th April 2018, hence this ground is no longer a good ground to deny parole to the petitioner.

5] As far as the second ground is concerned, the jail record of the petitioner shows that though in the year 2013,

the petitioner reported back to the prison after a delay of 42 days, thereafter on 3rd January 2016 the petitioner was released on parole and on this occasion he reported back on his own on the due date to the prison. Thus, the apprehension of the authority that if the petitioner is granted parole, he will not report back to the prison in time and will abscond, is without any basis, hence this ground is also not a good reason to deny parole to the petitioner.

6] As far as the third ground is concerned, it is seen that the brother of the petitioner is young and as far as two sisters are concerned, one is married and stays elsewhere and the second sister is suffering from a medical problem due to which she finds it difficult to move. Hence, we feel that this ground is also not a good reason to deny parole to the petitioner.

7] Looking to the facts, the jail record of the petitioner and his conduct in the prison, which is stated to be good, we are inclined to grant parole to the petitioner.

8] The petitioner be released on parole on the usual terms and conditions as will be imposed by the competent authority.

9] Rule is made absolute in the aforesaid terms.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA