

Sequeira

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

WRIT PETITION NO. 3296 OF 2018

Sandip s/o Hemraj Sardar

... Petitioner

Vs.

The State of Maharashtra and others

... Respondents

Mr.Nagraj Sudam Shinde, for the Appellant

Mrs.M.M.Deshmukh, APP for State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.***

Date : September 3, 2018.

P.C. :

The Petitioner herein was on release of parole for 45 days considering the ailment of his mother. It is further the case of the Petitioner that the Medical Officer issued medical certificate stating that the mother of the Petitioner requires to undergo cataract surgery. The Petitioner applied for extension of parole for further 15 days. The said application was rejected. Hence this petition.

2. The learned counsel appearing for the Petitioner submits that keeping in view the medical certificate and the fact that except the Petitioner nobody is in the family to look after the mother of the

Petitioner, the Respondent- authorities ought to have considered and granted extension of 15 days of parole.

3. Pursuant to the notices issued to the Respondents, Mr.Mahendra Baliram Warbhuwan has filed an affidavit. It is stated in the said affidavit that the Petitioner preferred application to release him on parole, on 7 May 2018 and said application was proceeded as per the new rules which came into force on 16 April 2018. It is stated that under normal circumstances, a prisoner can be granted regular parole upto 45 days. Learned APP during the course of hearing invites our attention to Rule 19(2)(C)(iii) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules 2018. It is also submitted by the learned APP that no exceptional circumstances were made out by the Petitioner as envisaged by the Rule 19(2)(C)(iii) of the new Parole rules, 2018 and therefore, his application for extension of parole of 15 days was turned down.

4. We have given careful consideration to the submissions of the learned counsel appearing for the Petitioner and the learned APP appearing for State, the affidavit filed on behalf of Respondent No.2, and the grounds taken in the Annexures thereof in reply filed by the Respondents. Admittedly, the Application filed by the Petitioner was to release him on parole. The aforesaid rules came into force on 16 April 2018. Therefore, the Application of the Petitioner was rightly considered by the Respondents under the aforesaid rules. Upon

perusal of the certificate issued by the Medical Officer, it appears that the mother of the Petitioner was advised to undergo cataract surgery. Already Petitioner was released on parole for 45 days. It was possible for him to go as per medical advice and to take his mother to undergo the cataract surgery. Be that as it may, in our opinion the reasons assigned by Respondents while rejecting the application of the Petitioner for extension of parole of 15 days are keeping in view the aforementioned amended rules and therefore, we do not think it necessary to cause interference in the impugned order. The Petitioner was granted parole of 45 days on 12 June 2018 and said period stood expired on 26 July 2018. Therefore, at this stage the prayer of the Petitioner for extension of said period cannot be acceded to however, it would be open for the Petitioner to apply for emergency parole and in case such application is made by the Petitioner to the Respondent-authorities, the Respondent-authorities shall consider the same keeping in view the medical certificate and also the fact as stated by the Petitioner that he is the only male member in his family to look after his mother and take the decision on such application as expeditiously as possible however, within one week from having made such application. With the above observations, the Writ Petition stands disposed of. Rule stands discharged.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)