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

WRIT PETITION NO. 5153 OF 2018

Vedprakashsing Virendrakumarsing .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Prosper D'souza for the Petitioner.
Mrs. P. P. Shinde, APP for the Respondent-State.

CORAM : R. M. SAVANT AND V. K. JADHAV, JJ.
DATE : 21st NOVEMBER, 2018.

P. C.

1. The above Writ Petition takes exception to the order dated 15.11.2018 passed by the Deputy Inspector General of Prisons, Western Region, Yerwada, Pune-6. By the said order, the application filed by the Petitioner for emergency parole came to be rejected. It is not necessary to burden this order with unnecessary details having regard to the nature of the directions to be issued, suffice it would be to state that the Petitioner is a life convict and is presently incarcerated in the Yerwada Jail, Pune. The Petitioner has been convicted for the offence punishable under Section 302 of the Indian Penal Code. The Petitioner has filed the application for emergency parole on the ground of marriage of his daughter Anshika with one Ayushman Prabhat Singh. The said marriage is to take place at village Golwara, (Saray Achal) Post- Pakharoli, District Sultanpur, State of Uttar

Pradesh. The factum of the marriage that is to take place has been reported by the Police when the report was sought from them. However, the Petitioner's Application has been rejected on account of the past conduct of the Petitioner when the Petitioner after having been released on furlough in the year 2001 did not report and was ultimately arrested on 09.02.2018 whilst on furlough. Hence, the Petitioner did not report for a period of 6035 days. The Competent Authority i.e. the DIG, Prisons also considered the fact and CR has been registered against the Petitioner being C. R. No. 439 of 2013 under Section 224 of the IPC. The afrosaid two grounds can be said to be the principal grounds on which the application for emergency parole has been rejected by the Competent Authority. As indicated above, there is no dispute about the factum of the marriage of the Petitioner's daughter which is to take place on 23.11.2018, the grant of emergency parole is circumscribed by the condition mentioned in the Notification dated 16.04.2018 by the State Government. In so far as the instant case is concerned, the same would be covered by Rule 19(B) which reads thus :

“(B) Emergency Parole may be granted by the Superintendent of Prison for the reason of death of parental grandfather or grandmother/father/mother/spouse/son/daughter/brother/sister and by concerned Dy.I.G. for the reason of marriage of son/daughter/brother/sister and the Authority approving emergency Parole shall decide whether to grant parole under police escort or with a condition to report daily to the local police station depending upon

the crime committed by the prisoner and his conduct during his stay. The expenses of police escort will be borne by the prisoner himself prior to his release on parole.”

2. A reading of the aforesaid Rule, therefore, discloses that the Deputy Inspector General of Prisons may consider the grant of emergency parole for the reasons of marriage of the son/daughter/brother/sister etc. of the prisoner. A discretion is thereafter vested in the DIG whether the said parole would be under police escort with condition to report local police station depending upon the crime committed by the prisoner and his conduct during his stay.

3. In our view, in the facts and circumstances of the case and especially having regard to the fact that the Petitioner's daughter is to get married on 23.11.2018, we are of the view that the interest of justice would be served if the impugned order is set aside and the following directions are issued:

The impugned order dated 15.11.2018 passed by the DIG, Prisons is set aside. Resultantly, the Petitioner's application for emergency parole would stand granted on the following terms and conditions:

(a) The Petitioner be taken to attend his daughter's marriage in Sultanpur District under adequate police escort which we leave it to the discretion of the authorities.

(b) The Petitioner through his learned Counsel undertakes to this

Court to pay for the police escort the amount as would be communicated to him prior to his release in terms of the instant order.

(c) Learned Counsel for the Petitioner, on instructions of the wife of the Petitioner, undertakes to file an affidavit to disclose the source of funds which would defray the cost of the police escort. The said undertaking to be filed within two weeks from date. Petitioner's brother Arvind Virendrakumarsing has already filed an affidavit dated 22.10.2018 in the Rural Police Station, Sultanpur standing surety for the Petitioner.

(d) The Petitioner would be released on emergency parole for a period of 5 days i.e. upto 26.11.2018. This is in view of the fact that a day would be lost in completing the formalities.

(e) The Petitioner would be brought back to Yerwada Central Jail, Pune on the period of emergency parole coming to an end and report to the said effect would be filed in this Court.

(f) The Petition is allowed to the aforesaid extent and is disposed of.

(g) All parties to act on a copy duly authenticated.

(h) For compliance to be placed on 28.11.2018.

[V. K. JADHAV, J.]

[R. M. SAVANT, J.]