

—
IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CRIMINAL WRIT PETITION NO. 160/ 2018

(Uttam s/o Ghanshyam Farkade vs. Divisional Commissioner, Nagpur and one)

=====

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

.....

Ms. S.B. Khobragade, Advocate for petitioner
 Mrs. Tripathy, Additional Public prosecutor for respondents

CORAM : **SMT. VASANTI A. NAIK &**
MRS. SWAPNA JOSHI, JJ.
DATED : 5th March, 2018.

Heard.

By this Writ Petition, the petitioner challenges the order of the Divisional Commissioner, Nagpur, dated 24.1.2018, rejecting the application filed by the petitioner for grant of parole leave.

The parole leave application of the petitioner is rejected on two grounds. Firstly, according to the Divisional Commissioner, as per the police report, if the petitioner is released on parole, there is a likelihood of breach of peace in the locality where the petitioner resides. Secondly, according to the Divisional Commissioner, the petitioner had reported belatedly when he was released on parole leave on earlier occasions.

Miss Khobragade, the learned counsel for the petitioner states that the house of the petitioner has

collapsed and it would be necessary for the petitioner to immediately repair the house before the rainy season. It is stated that if the petitioner is released on parole leave on this occasion, the petitioner would report to the prison authority on the due date.

The parole leave application of the petitioner cannot be rejected by merely observing that if the petitioner is released on parole, there would be a likelihood of breach of peace. No reason is recorded for expressing this apprehension in the impugned order. On a perusal of the photograph that is annexed to the Writ Petition, it appears that the house in which the petitioner's family resides, has collapsed. If that is so, it would be necessary to release the petitioner on parole leave as the learned counsel for the petitioner has assured that the petitioner would report to the prison authority on the due date.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The impugned order is quashed and set aside. The Divisional Commissioner is directed to release the petitioner on parole, on the usual terms and conditions. The petitioner should be released on parole within seven days from the date on which the petitioner's relatives furnishes surety as per the requirement of Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

Order accordingly.

JUDGE

JUDGE

satase