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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2889 OF 2019

Santosh Manohar Deshmukh	... Petitioner
Versus	
The Additional Secretary, Home Department (Prison)	... Respondent

Mr. Abhishek R. Avchat for the Petitioner.
Mrs. M.H. Mhatre, APP for the Respondent - State.

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.

DATE : 13th AUGUST, 2019.

P.C. :

1 Petitioner - prisoner who has put in 17 years 9 months and 27 days without remission sought parole on account of need of surgery of his mother in August 2018. Application has been rejected by impugned order dated 12th November 2018 on the ground that because of Rule 4(13) added by G.R. on 16th April 2018 he does not qualify. On 20th March 2019 in appeal the State Government has maintained this order.

2 After hearing the learned counsel (appointed) and the learned APP, we find that the prisoner was in past released on furlough leave on two occasions and thereafter on parole leave on four occasions.

On some occasions he has reported late. However, on last occasion when he was released on 2nd December 2015 he has reported back on 1st March 2016 i.e. on due date.

3 Even on this occasion police report is in his favour. It is only because of the amendment of policy that leave is declined to him.

4 In this situation when prisoner has been sentenced on 20th October 2005 and is in jail since 5th August 2001, considering his previous conduct we find that in emergent cases he may be permitted the facility of parole.

5 However in the present facts, certificate in support of prayer is dated 28th June 2018 and it is issued by a Primary Health Centre which advised Coronary Angioplasty by Surgeon. It is also mentioned that mother will require one attendant for this surgery. It is admitted position that mother of prisoner viz. Smt. Laxmi Manohar Deshmukh has not been operated till date.

6 We therefore permit petitioner to move fresh application if reason still subsists with proper certificate. If such application with certificate containing time schedule for surgery is supplied by petitioner, the authority shall permit him to avail parole with necessary conditions including the requirement of a report from the concerned doctor about actual surgery and attendance at local Police Station with specific intervals.

7 With these directions, we dispose of the petition.

8 Order be communicated to prisoner in jail.

(MRS. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)