

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4018 OF 2017

Rakesh Mahadu Dandekar. ... Petitioner.
V/s.
The Additional Secretary, Home
Department (Prisons) Mantralaya & another. ... Respondents.

Mr. Prosper D'Souza for the petitioner.
Mr. Arfan Sait, APP for the respondent.- State.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 20th February 2019.

P.C. :

Rule. Rule made returnable forthwith. Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has applied for grant of parole under the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short "the said Rules of 1959"). The parole was sought on the ground that the petitioner's mother is suffering from serious ailment. The Divisional Commissioner, Pune rejected the said application on the basis of an adverse police report which records that there is an apprehension that if the petitioner is released on parole, there will be breach of public peace and tranquility. The said order is confirmed in appeal by the State Government.

3. The learned APP has placed on record a copy of the order dated 27th August 2018 passed by the competent authority by which the petitioner was ordered to be released on furlough for a period of 28 days.

4. The very fact that on 27th August 2018, the petitioner was released on furlough shows that the grounds given in the order of the competent authority dated 2nd April 2016 and the order date 31st March 2017 of the appellate authority cannot be sustained and, therefore, the case of the petitioner for grant of parole will have to be reconsidered. However, the application made by the petitioner is of the year 2015. To enable the authorities to reconsider the case of the petitioner for grant of parole, the petitioner will have to produce a fresh medical certificate regarding the present health condition of his mother and other relevant documents. Accordingly, we pass the following order:

O R D E R

- (i) The orders dated 2nd April 2016 and 31st March 2017 are hereby set aside.;
- (ii) It will be open for the petitioner to produce before the Divisional Commissioner, Pune the documents showing the present health condition of his mother;
- (iii) A fresh order shall be passed on the application for parole made by the petitioner within a period of two weeks from the date such documents are produced by the petitioner in the office of the Divisional Commissioner, Pune;

- (iv) The order passed on the application for parole shall be communicated to the petitioner through Jail Superintendent of the concerned jail;
- (v) Rule is made absolute on the above terms;
- (vi) A copy of this order shall be forwarded to the petitioner through Jail Superintendent of the concerned jail.

(A.S.GADKARI, J.)

(A.S.OKA, J.)