

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 236 OF 2020

PETITIONER :- Jailal s/o Mohan Netam, (C-8215)
(Central Prison, Nagpur).

...**VERSUS**...

RESPONDENTS :- 1. State of Maharashtra, through the
Divisional Commissioner, Nagpur and
2. The Superintendent of Central Prison,
Nagpur.

Mr. S. D. Sahoo, counsel for the petitioner.
Ms N. P. Mehta, A.P. P. for the respondents.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATE : 03.12.2020.

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. The writ
petition is heard finally with the consent of the learned counsel for
the parties.

3. Two grounds are taken in the impugned order for denying the parole leave to the petitioner. First is the possibility of disturbance of law and order situation, if the petitioner goes out of the jail on parole and the second is the petitioner reported to the Jail Authorities on the last occasion somewhat belatedly.

4. The first ground is vague and no material is placed before us to even show that there is reasonable apprehension of disturbance of law and order situation, if the petitioner is released on parole. In the Police report, this statement regarding disturbance of law and order situation has been made in the context of impediment of Lok-Sabha Elections. The Police report is dated 12/02/2019. The Lok-Sabha Elections were admittedly held in May 2019. So, it is clear that the apprehension of disturbance of law and order situation, as per the Police report, is the thing of past and no longer relevant.

5. The second ground that the petitioner reported to the Jail Authorities on the last occasion quite belatedly and also the Police report is adverse, but the order rejecting parole does not give necessary details.

6. The due date on which the petitioner was supposed to report the Jail Authorities and the number of days overshoot by the petitioner are not given in the impugned order. The reply filed by the respondents is even more irresponsible. It does not even refer to the alleged late reporting to the Jail Authorities by the petitioner.

7. The facts and circumstances as discussed above would only show that the impugned order has been passed with a predetermined mind to reject the parole application of the petitioner, without there being any material available on record to support the negative conclusion taken in this matter. As such, the order is violative of the principle of rule of law and order. It deserves to be quashed and set aside. The petition is allowed. The impugned order is hereby quashed and set aside.

8. The respondents are directed to release the petitioner on parole for such period as is permissible under the Rules and upon appropriate conditions, within a period of two weeks from the date of the order.

9. Rule is made absolute in these terms. No costs.

JUDGE

JUDGE