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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2774 OF 2021

Rupali Uttam Khedekar
Age- 34 years Occ- Nil,
R/o. Urali Kanchan, Tal- Haveli,
Dist- Pune At presently lodged in
Yerwada Central Prison, Pune.

...PETITIONER

Versus

1. The State of Maharashtra
2. The Superintendent of Jail
Yerwada Central Prison, Pune.

...RESPONDENTS

...

Mr. Aniket Vagal for Petitioner.
Mr. V.B. Konde-Deshmukh, APP for State.

...

CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.

RESERVED ON : 21st SEPTEMBER, 2021.
PRONOUNCED ON: 29th SEPTEMBER, 2021.

JUDGMENT: [PER S.S. SHINDE, J.]

1. Rule. Rule made returnable forthwith and heard with the consent of learned counsel for the parties.

2. The Petitioner is a life convict and undergoing his sentence in Yerwada Central Prison, Pune. The Petitioner has undergone more than 7 years in the prison. The Petitioner was arrested in the year 2014 in C.R. No. 259 of 2014 registered with

Kalbhor Police Station for the offences punishable under Section 302 of IPC. The Petitioner was convicted in Sessions Case No. 734 of 2014 by the Sessions Court, Pune, vide order dated 17th May, 2019 for the offence punishable under Section 302 of IPC and sentenced to suffer rigorous imprisonment for life and fine of Rs. 10,000/-.

3. Learned counsel for the petitioner submitted that due to the pandemic situation, as the notification was issued by the State Government to decongest the jails, prisoners to be released on emergency parole, so as to minimize the spread of Covid-19 virus, the petitioner applied for emergency parole. However, Respondent No. 2 rejected the application of the petitioner vide order dated 25th February, 2021, on the ground that the petitioner has not been released on furlough/parole in the past. Being aggrieved by the said order passed by 2nd respondent, the petitioner filed Writ Petition No. 1801 of 2021 before this Court. Division Bench (Coram:- S.S. Shinde & Manish Pitale, JJ.), vide order dated 4th May, 2021, quashed the order passed by the 2nd respondent and granted liberty to the petitioner to file a fresh application before Respondent No. 2 and further observed that application filed by the petitioner shall not be rejected on the same grounds which were mentioned in the impugned order.

4. It is submitted that pursuant to the order passed by this Court on 4th May, 2021, the petitioner on 1st June, 2021 filed a fresh application before the 2nd respondent. The said application was rejected by the 2nd respondent on the ground that the police report in respect of petitioner's parole leave is unsatisfactory/negative and her appeal against the same is also rejected by DIG, Prison, on the same ground. Hence, this writ petition.

5. Learned APP appearing for State invites our attention to the impugned order and submits that the 2nd respondent has rightly rejected the application of the petitioner. Learned APP submits that the petitioner was in police department and if the petitioner is released on Covid-19 emergency parole, that she will tamper with the prosecution witnesses, and, therefore, the petition deserves to be dismissed.

6. We have given careful consideration to the submissions of learned counsel appearing for the petitioner and learned APP for State. With their able assistance we have perused the pleadings and grounds taken in the petition, impugned order and report filed by the respondent authority.

7. It appears that the application filed by the petitioner has been rejected on the ground that she was never released on parole or furlough in the past. Secondly, proper care is being taken to stop the spread of Covid-19 virus, all the inmates are vaccinated in the prison, the total number of inmates are less than the requisite capacity and there is a adverse report against the petitioner.

8. So far adverse police report is concerned, no specific statement of witnesses are brought to the notice of this Court which would indicate any eminent danger to their lives or property. The apprehension is expressed that in case the petitioner is released on Covid-19 emergency parole and allowed to reside in the nearby place of incident where the witnesses are residing, in that case she may pose danger to lives of said witnesses. In this respect, care can be taken if the petitioner is directed to reside/stay away minimum 25 km from the place of incident and from the vicinity where the witnesses are residing. No doubt independent sureties are necessary in case of release of the petitioner on Covid-19 emergency parole. The Petitioner is a women and has already undergone more than 7 years imprisonment and she was never released on furlough/parole.

9. At this juncture it would be apt to reproduce herein below objectives of furlough/parole mentioned in Rule 1(A) of the said Rules.

****[1(A). Objectives:-***

Furlough and Parole leaves to inmates are progressive measures of correctional services. The objectives of releasing a prisoner on leave are:-

(a) To enable the inmate to maintain continuing with his family life and deal with family matters,

(b) To save him from evil effects of continuous prison life,

(c) To enable him to maintain and develop his self-confidence,

(d) To enable him to develop constructive hope and active interest in life.]

10. In that view of the matter and in the light of discussion hereinabove, we are of the opinion that the petition deserves to be allowed. Hence, the following order:

ORDER

A) The Writ Petition is allowed. The impugned order dated 09.06.2021 passed by Respondent No. 2 is quashed and set aside.

B) The Petitioner be released on Covid-19 emergency parole, on a condition that the Petitioner shall furnish independent surety and one surety from friends/relatives.

- C) After release the Petitioner shall reside/stay minimum 25 km away from the place where the witnesses are residing.
- D) The Petitioner shall report nearby police station where the petitioner is going to stay, twice in a week for two months and thereafter once in a week till she is on Covid-19 emergency parole.
- E) In addition to above, the respondent authority would be at liberty to impose conditions on the the petitioner as contemplated under the relevant Rules/procedure.
- F) Rule made absolute to above extent. The writ petition stands disposed of accordingly.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)