

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4720 OF 2021

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Devendra S/o. Ajit Gambhir
(Petitioner's brother Mayuresh
S/o. Ajit Gambhir)

...Petitioner

vs.

The State of Maharashtra
& Anr.

...Respondents

Mr.Rupesh Anil Jaiswal, Advocate for petitioner.

Mr.Y.M. Nakhwa, APP for respondent No.1-State.

CORAM : N. J. JAMADAR &
ABHAY AHUJA, JJ.
DATE : 24th DECEMBER, 2021
(VACATION COURT)

P.C.:

1. Heard Mr.Rupesh Jaiswal, the learned counsel for the petitioner and Mr. Y.M. Nakhwa, the learned APP for respondent No.1-State.

2. The challenge in this petition is to an order dated 22nd November 2021 passed by the Deputy Inspector General (Prisons), Central Division, Aurangabad, whereby the brother of the petitioner, namely, Mayuresh Ajit Gambhir (the convict) has been ordered to be released on emergency parole to attend the marriage ceremony of the petitioner-Devendra under police escort and upon payment of escort charges.

3. Mr.Jaiswal, the learned counsel for the petitioner submits that on account of poor financial position, the petitioner cannot afford to deposit the escort charges, which, according to his instructions, are in excess of Rs.1 Lakh.

4. Evidently, the Competent Authority has directed the release of the convict on emergency parole, for a period of two days to attend the marriage of the petitioner. While passing the said order, the Competent Authority had taken into account the antecedents of the convict.

5. Mr.Jaiswal made an endeavour to contest the position by canvassing a submission that the convict-Mayursh Gambhir has been acquitted of the offences referred to in the impugned order.

6. At this juncture, we do not deem it appropriate to delve into this aspect of the matter as it is primarily for the Competent Authority to arrive at a decision as regards the necessity of escort, while releasing a convict on emergency parole, on the basis of threat perception and requirement of security personnel.

7. The second submission on behalf of the petitioner that the convict would not be able to avail the order of release on emergency parole as the petitioner is not in a position to pay the escort charges, however, deserves consideration. The fact that the

petitioner and his family members find themselves in adverse social situation and poor financial condition, is borne out by the affidavit filed by Smt.Anita Ajit Gambhir, the mother of the convict. The long period of incarceration entails its own consequences.

8. As the marriage of the petitioner-Devendra is scheduled to be solemnized on 29th December 2021, we deem it expedient in the interest of justice, to direct that the convict -Mayuresh Gambhir be released on emergency parole in terms of the order dated 22nd November 2021, subject to payment of escort charges of Rs.25,000/- (Rupees Twenty Five Thousand Only), instead of the charges to be determined in accordance with the prevailing Rules.

9. The impugned order dated 22nd November 2021, thus, stands modified to the aforesaid extent of payment of escort charges only.

10. The petition stands disposed of.

11. All concerned to act on an authenticated copy of this order.

(ABHAY AHUJA, J.)

(N. J. JAMADAR, J.)