

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

CRIMINAL WRIT PETITION NO. 573 OF 2021

Shubham s/o Tatyrao Jawanjal,
aged about adult, R/o at Post Kund Khurd, Haterna,
Tah. Bhatkuli & District Amravati.
(C/5667, Central Prison, Amravati, District Amravati).

...PETITIONER

Versus

1. Divisional Commissioner,
Amravati Division, Amravati.
2. Superintendent of Jail,
Central Prison, Amravati, District Amravati.

...RESPONDENTS

Ms. P M. Mane, Advocate for the petitioner.
Mrs. N.R. Tripathi, A.P.P. for the respondents.

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**CORAM : M.S. SONAK AND
PUSHPA V. GANEDIWALA, JJ.
DATED : NOVEMBER 25, 2021.**

ORAL JUDGMENT (PER : PUSHPA V. GANEDIWALA, J.) :

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The challenge in the present Writ Petition is to the order dated 01/06/2021 passed by respondent No.1 – Divisional Commissioner, Amravati, whereby respondent No.1 has rejected the application of the petitioner for grant of parole leave of 45 days.

3. The petitioner is a convict and undergoing sentence of life imprisonment for the offence punishable under Section 302 of the Indian Penal Code, and since 02/11/2019, he is lodged at Amravati prison.

4. On 19/04/2021, the petitioner has applied for release on parole leave for 45 days on the ground of serious illness of his mother. He has annexed medical papers along with the application. His application came to be rejected vide order dated 01/06/2021 mainly on the ground that surety is not the resident of the place where the petitioner would reside during parole leave. Secondly, there are other members in the house of the petitioner to take care of his mother, and thirdly, the relatives of the deceased expressed apprehension of occurrence of serious crime if the petitioner is released on

parole leave.

5. Mrs. Tripathi, learned A.P.P. reiterated the grounds on which the application for parole leave of the petitioner came to be rejected.

6. We have considered the submissions put forth on behalf of both the sides and perused the record.

7. At the outset, a perusal of the impugned order would reveal that the petitioner has produced medical certificate of illness of his mother issued by the Medical Officer, District General Hospital, Amravati dated 10/02/2021. A careful perusal of the impugned order would reveal that the learned authority has not considered the medical ground of the mother of the petitioner while deciding his application.

8. Rule 19(2) of The PRISONS (Bombay Furlough and Parole) Rules, 1959 provides eligibility of the prisoners for Regular Parole in case of serious illness of father/ mother/ spouse/ son/ daughter of the prisoners. The objectives for grant of furlough or parole leave to the inmates, i.e., the

progressive measures of correctional services, which came to be inserted vide notification No. MIS-1316/C.R.669/16/PRS-3 dated 16/04/2018 are a) to enable the inmate to maintain continuity 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.

9. In the instant case, considering the medical papers, which have been produced by the learned counsel for the petitioner before this Court, issued by the Medical Officer, District General Hospital, Amravati about serious illness of the parents, i.e., angioplasty was recommended for the father of the petitioner, while for the mother, operation was suggested for bulky uterus, so also considering the fact that the reply filed on behalf of the State does not indicate any other significant reason for not granting parole leave to the petitioner, nor did it say that the petitioner, at any time, taken undue advantage when he was released on furlough leave earlier, this Court is of the considered view that the petitioner has made out a case for

his release on parole leave.

10. Accordingly, we quash and set-aside the order dated 01/06/2021 passed by respondent No.1 – Divisional Commissioner, Amravati. Respondent No.2 is directed to release the petitioner on parole leave for 45 days subject to such conditions to the satisfaction of respondent No.2 to secure the presence of the petitioner after the leave period is over.

11. Rule is made absolute in the aforesaid terms. Writ Petition is disposed of.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

Sumit