

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

CRIMINAL WRIT PETITION NO. 649 OF 2020

PETITIONER :- Anil Bhanudas Waghmode, age 42 years
(C-10128) Central Prison, Nagpur.

...VERSUS...

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

Mr.A.Y. Sharma counsel for the petitioner.
Mr.S.M.Ghodeswar, APP for the respondents.

**CORAM : SUNIL B.SHUKRE &
AVINASH G. GHAROTE, JJ.**

DATE : 02.02.2021.

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

Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the learned counsel appearing for the parties.

3. An application filed by the petitioner for his release on regular parole on the ground of serious illness of his wife has been rejected by the respondent no.1 stating that the illness disclosed by the medical certificate dated 06.09.2020 (page 11) is not really serious.

4. So far as, eligibility of the petitioner for his release on regular parole is concerned, there is no dispute about it and that the petitioner is indeed entitled to be released on regular parole, if he satisfies the conditions of the same. In fact, the letter dated 28.09.2019, addressed to the superior officer of respondent no.2 shows that on the previous occasion, the petitioner was released on furlough and that the petitioner had surrendered himself before the jail authorities on the due date of 27.09.2019. Thus, there is no dispute about the eligibility and good conduct of the petitioner. Now the only question that needs to be considered is as to whether or not the ground taken by the petitioner seeking his regular parole is justified in the facts and circumstances of the case.

5. The medical certificate dated 06.09.2020 shows that in the opinion of the doctor, surgical intervention for correcting the lumbar vertebral disc prolapse, because of which the wife of the petitioner is suffering, is required. When surgical intervention has been advised, it is difficult to accept the contention of any body that the illness is not serious. Therefore, we find that the impugned order is erroneous and it deserves to be quashed and set aside .

6. The Criminal Writ Petition is allowed. The impugned order is hereby quashed and set aside and the respondents are directed to release the petitioner on regular parole as per his entitlement and in terms of such conditions as may be found to be suitable for their imposition in the matter within a period of two weeks from the date of the order.

Rule is made absolute in these terms.

JUDGE

JUDGE