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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.655/2020

1. Mohd. Faruk Mohd. Yusuf,
Aged about 45 years,
R/o. Janewa Chal Committee,
Golibar Panchwa Road,
Shantacruz (East) Mumbai.
(C/4380, Central Prison,
Amravati, District Amravati) PETITIONER

// VERSUS //

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

Shri S. D. Chande, Advocate for petitioner
Ms. T. H. Khan, APP for the respondents.

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

DATED : 02/02/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

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

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3] The only ground on which the petitioner's application for grant of regular parole has been rejected is that he is a convict in a case involving bomb blast and thus a prisoner who was involved in terrorist crime. However, if one goes through the reply filed in the connected matter, wherein details of the convictions and sentences awarded have been stated, one is surprised to find that there is not a single offence of terrorist crime with which the petitioner was charged in this case and prosecuted for the same and also convicted. All the convictions and sentences awarded to the petitioner in the so called bomb blast case were under Indian Penal Code, Arms Act and other related enactments except for such relevant enactments as Terrorist and Disruptive Activities Act and Unlawful Activities (Prevention) Act. So, the reply filed by respondents is contrary to the facts established on record and it is now clear that the petitioner is not a convict of any terrorist crime.

4] According to learned APP, there have been directions issued by the Sessions Court, Greater Bombay in Sessions Case No.643 of 1998, decided on 09.07.2004 wherein, this petitioner has been convicted for various offences and awarded various sentences except for the once pertaining to

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terrorist crimes, that the State Government shall not act liberally while entertaining any request of this petitioner for commutation or remission of sentences, considering the seriousness of nature of offence committed by him. It is for this reason that learned APP submits that the impugned order is correct and the petitioner be not granted any regular parole. We would have accepted the contention so raised by the learned APP, had it been really taken seriously by the State Government and its officers. On the one hand, Sessions Court at Mumbai directs the State Government to not act liberally considering the seriousness of nature of offences committed by the petitioner, the offices of the State Government show scant respect for this order and which is evident from releasing the petitioner either on parole or furlough on numerous earlier occasions. In the connected matter, the respondents have filed detailed reply containing a chart of the earlier releases of the petitioner. From the year 2009 to 2016, the petitioner has been released 11 times either on parole or furlough. Out of these 11 times, the petitioner had surrendered himself before the Jail Authorities belatedly on four occasions. The late surrender ranged from one day to maximum of 16 days. In spite of such late surrenders, the offices of the State Government have acted very

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promptly in releasing the petitioner at the first available opportunities on furlough or parole. At that time, they did not think even for a second that there was a need for them to take the direction issued by the learned Sessions Judge of Greater Bombay seriously considering the gravity of the offences committed by the petitioner. It is therefore, a surprising fact that now suddenly some realization has dawned upon the officers to take the plea of seriousness of the crime, for opposing this petition and that too on the grounds not consistent with the established facts and law.

5] In the circumstances, we find that the reason stated in the impugned order for denial of regular parole to the petitioner is arbitrary, discriminatory and unfair resulting in denial of a limited right of parole available to the petitioner, by violating the procedure of law. This is not permissible and therefore, the impugned order must go.

6] The Writ Petition is allowed. The impugned order is hereby quashed and set aside. The respondents are directed to release the petitioner on regular parole, as per his entitlement and on such conditions as could be imposed upon him in accordance with a rules, within period of two weeks from the date of the order.

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Rule accordingly in these terms.

JUDGE

JUDGE

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