

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

Criminal Writ Petition No.829/2021

Bhimrao Maroti Awathare,
Aged 60 (C-5780) presently Central Prison Amravati
Dist. Amravati.

... Petitioner

Versus

1. State of Maharashtra
through Divisional Commissioner Amravati , Dist. Amravati
2. Superintendent of Central Prison,
Amravati Dist. Amravati.

.... Respondents

Mr. N.A. Badar, Adv for applicant.
Mrs. Tripathi, APP for State.

CORAM : M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 23-12-2021.

Oral Judgment (Per-M.S. Sonak, J.)

Heard Mr. Badar learned Counsel for the petitioner and Mrs
Tripathi learned APP for the State.

2. **Rule.** Rule is made returnable forthwith at the request of and
with the consent of learned Counsel for the parties.

3. The petitioner challenges the impugned order dated
30-08-2021 denying him regular parole based on the adverse Police Report.

4. In the first place we ascertained that whether the petitioner is
eligible for parole. The learned Counsel for the parties have pointed out
that the petitioner has completed more than 4 years of incarceration and

therefore the petitioner is eligible for parole.

5. In this case the rejection is on the ground of adverse Police Report. We have examined the report but we find that there are no details indicated in support of Adverse Police Report. The report is vague and general in nature and does not inspire much confidence. The aspect that the petitioner is almost 60 years old and parole has been applied for to attend his wife's illness has not at all been considered in this case. The petitioner has placed before the authorities medical certificate to establish that his wife was suffering from Pelvic Inflammatory disease for which Hysterectomy was advised. According to us all these materials were required to be considered. The authorities were also required to consider the purpose for making provisions under the Rules for release of the prisoners on parole. Since all these aspects have not been considered in this case, we think that the impugned order should be quashed and the petitioner should be granted parole for a period of 45 days as prayed for by the applicant. No doubt the authorities will be entitled to impose conditions while granting a parole to ensure that the petitioner returned to the prison to suffer sentence of imprisonment imposed upon him. Such conditions should also not be too harsh so as to render a relief now granted by him almost infructuous.

6. For the aforesaid we quash and set aside the order dated 30-08-2021 and direct the respondents, the petitioner be granted parole

for a period of 45 days subject to such terms and conditions as the prison authorities may appropriate in the circumstances of the case. Necessary orders in this regard may be made within one week from the date of communication of this order.

7. Rule is made absolute in the aforesaid terms. No costs.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)