

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

957 CRIMINAL WRIT PETITION NO.98 OF 2022

DARASINGH @ MARUTI S/O VAKILYA BHOSALE (CONVICT NO.
6548)

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Ms. Bharati B. Gunjal
APP for Respondents-State: Mr. S. D. Ghayal

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CORAM : V. K. JADHAV AND

SANDIPKUMAR C. MORE, JJ.

DATED : 18th FEBRUARY, 2022.

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P. C. :

1. Heard finally with consent of the parties at admission stage.
2. The petitioner is a convict in connection with the judgment and order of conviction passed in Sessions case No. 100 of 2001 dated 23/06/2005 by Second Additional Sessions Judge, Ahmednagar sentencing him to imprisonment for life, total 23 years imprisonment on various counts to be run consecutively. The petitioner has sought an emergency parole on account of the death of his son on 20/12/2021 at village Gadegaon-Gangapur, Taluka Paithan, District Aurangabad. By order dated 26/12/2021 though the respondent authority has granted an emergency parole for two days, however, the same is granted under police escort.

3. Learned counsel for the petitioner submits that the expenses of the police escort are approximately Rs.70,000/ per day and it is not possible for the petitioner to bear the said expenses. Learned counsel submits that the discretion lies with the authority to decide as to whether grant parole under police escort or condition to report daily to the local police station depending upon the crime committed by the petitioner and his conduct during his imprisonment. Learned counsel has pointed out that there is no adverse police report against the petitioner-convict. Further more, wife of the petitioner namely Gayabai has shown her readiness and willingness to furnish the surety. Learned counsel submits that the alleged incident had taken place at Kothewadi, Taluka Pathardi, District Ahmednagar and the petitioner / convict is hailing from Gadegaon-Gangapur, Taluka Paithan, District Aurangabad. The Beedkin police has recorded the statement of proposed surety Gayabai Bhosale, Bhagchand Mule, resident of Gadegaon Gangapur and one Deepak Mule, member of Grampanchyat and also Rameshwar Laghane, Up-Sarpanch of Group Grampanchyat of village Imampur. They have not given any adverse opinion of if petitioner / convict is released on emergency parole and there will not be any law and order problem in the village.

4. Learned APP submits that the petitioner along with other accused persons allegedly committed dacoity with gang rape in a very barbaric manner. Thus, considering the seriousness of the crime committed by the petitioner, respondent authority has rightly granted him parole under the police escort. There is no substance in the criminal writ petition and same is liable to be dismissed.

5. We have carefully gone through the provisions of Rule 19(1) (b). Though the authority is empowered to grant emergency parole under police escort, however, in the instant case respondent authority has not recorded any special reasons for granting parole to the petitioner under the police escort. Same is also important in the backdrop that there is no adverse police report. Though we find that the petitioner came to be convicted in connection with serious charges and further the imprisonment is directed to undergo consecutively by the court, however, considering the heavy charges of the police escort even if it is for limited period for two days, it is not possible for the petitioner/convict to attend the last rites of his son. Though the son of the petitioner died in the month of December, however, the petitioner could not avail emergency parole for the reasons that he is not in a financial position to pay the heavy charges of the escort. In view of the same, we deem it appropriate if the petitioner is directed to release on emergency

parole on condition to report daily to the local police station i.e. Beedkin Police Station. Learned APP, on instructions, submits that there is no adverse report about conduct of the petitioner in jail. In view of the same, in our considered opinion, if the impugned order is modified to the extent as discussed above, the justice will be met. Hence, we pass following order.

ORDER

- I) The criminal writ petition is hereby partly allowed.
- II) The impugned order is modified to the extent and effect that the petitioner / convict Darasingh @ Maruti s/o Vakilya Bhosale (Convict No. 6548) be released on emergency parole, in stead of police escort, with a condition to attend Beedkin Police Station daily between 3.00 p.m. to 5.00 p.m. for 05 (five) days excluding the day of his release and also excluding the day of his return back on usual conditions.
- III) Criminal writ petition is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-