

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

944 CRIMINAL WRIT PETITION NO. 641 OF 2022

KRUSHNA SHAHADEV KARKE (C-8853)
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Petitioner : Ms. Gaikwad Sarita V.
APP for Respondent-State : Mr. S. D. Ghayal
.....

**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 04th MAY, 2022**

PER COURT:-

1. Heard finally with consent at admission stage.
2. The petitioner-convict is seeking emergency death parole on account of death of his grandfather. The petitioner's grandfather died on 28.03.2022.
3. Learned counsel for the petitioner submits that the application filed by the petitioner-convict came to be rejected solely on the ground that the police report is adverse. Learned counsel submits that the concerned police station has submitted the report in a usual and routine manner even without recording statements of any witnesses. Learned counsel submits that there is no question of any law and

order problem if the petitioner is released on emergency death parole. Learned counsel submits that the petitioner is ready to give attendance to the local police station.

4. Learned APP submits that the police report is adverse and since there is an apprehension of law and order problem if the petitioner is released on emergency death parole, this writ petition is liable to be dismissed.

5. We have carefully gone through the police report. It appears that no statements of relatives of the victim came to be recorded and merely the possibility is considered that in the event the petitioner is granted emergency death parole, there will be law and order problem. Further, the application filed by the petitioner is also rejected on the ground that the surety offered by him is an old lady. However, as explained and informed to us by the learned counsel for the petitioner, the said surety is the mother of the petitioner and as per the Aadhaar Card placed on record, she is less than 45 years of age. Thus, considering the entire aspect of the case, we are inclined to allow this Writ Petition. Hence, the following order:

ORDER

I. The Criminal Writ Petition is hereby allowed.

II. The impugned order dated 25.04.2022 passed by the Superintendent, Central Prison, Aurangabad is hereby quashed and set aside.

III. The application filed by the petitioner for emergency death parole is hereby allowed.

IV. The petitioner is directed to be released on emergency death parole for a period of seven days from the date of receipt of this order on usual terms and conditions of surety etc., with further condition that the petitioner shall daily attend the Talwada police Station during the said period of seven days.

V. The Criminal Writ Petition is accordingly disposed off.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)