

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

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CRIMINAL WRIT PETITION NO. 234 OF 2022

Arun s/o Gulab Gawli (C-8535)

Aged about 66 years

R/o Gitai Society, Dagdi Chawl

Baburao Jagtap Marg, Byculla (W)

Mumbai-11

Presently Nagpur Central Prison, Nagpur.

..Petitioner

versus

1. Divisional Commissioner
Nagpur Division, Nagpur.

2) The Superintendent,
Central Prison, Nagpur.

..Respondents

Mr.Mir Nagman Ali, Advocate for Petitioner

Mrs.Ketki Joshi, Incharge Public Prosecutor for Respondents

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CORAM: SUNIL B.SHUKRE AND
G.A. SANAP,JJ.

DATED : 22nd June, 2022.

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

Rule. Rule, made returnable forthwith. Heard finally
by consent.

2. The Petitioner has sought for regular parole for a period of 45 days, on the ground that his wife is suffering from chronic suppurative otitis media (CSOM) of left ear, for which she has to undergo a surgery. Mr. M.N. Ali, learned counsel for the petitioner submits that the surgery is scheduled on 30th June 2022 and it being a delicate surgery, presence of the Petitioner near his wife at the time of surgery will help his wife undergo the same properly. He also submits that the petitioner has been released earlier either on furlough or parole as many as eleven times and, therefore, the adverse police report to the effect that if he is released on regular parole there would be possibility of creation of law and order situation, holds no water.

3. Relying on the adverse police report, the learned PP opposes the petition.

4. We find that the petitioner is otherwise eligible for his release on regular parole and there is no dispute about this. The only question to be answered is whether the presence of the petitioner at Mumbai during the period of surgery of his wife would be of such a nature as would create any law and order situation. Perusal of the police report, however, does not satisfy us that there is any such real possibility. The apprehension stated in the police report is of a general nature. Similarly, the apprehension, as rightly submitted by the learned counsel for the petitioner, was expressed

by the police on previous occasions too, and despite those apprehensions the petitioner was released on furlough or parole and there was no issue of law and order which really arose on earlier occasions. Moreover, the petitioner had surrendered to the jail authorities on due dates on each of the earlier occasions.

5. Considering the above facts and circumstances, we are of the view that the petitioner deserves to be released on regular parole on the ground of surgery of his wife for serious ailment.

6. In the result, the petition is allowed. We direct the Respondent No.1 to release the petitioner on regular parole within a period of three days from the date of this order, on such conditions as may be deemed fit. While granting regular parole to the petitioner, appropriate care shall be taken by the Respondent No.1 to impose further conditions, one of which would be his attending Agripada Police Station, Mumbai on certain dates and at specified times during the period of his parole.

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

[G.A. SANAP,J.]

[SUNIL B. SHUKRE, J.]

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