

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

CRIMINAL WRIT PETITION NO. 459 OF 2022

Ashish @ Maddy Virendra Rathod (In jail)

vs.

State of Maharashtra and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Shweta Wankhede, Advocate for petitioner.
Mr. S.M.Ghodeswar, APP for respondents.

**CORAM : MANISH PITALE AND
VALMIKI SA MENEZES JJ.**

DATE : 12/08/2022

Heard Ms.Shweta Wankhede, learned
counsel appearing for the petitioner.

2. In the present petition, the petitioner has challenged order dated 14/06/2022, passed by the respondent No.1 – Divisional Commissioner, whereby an application for grant of parole under Rule 19 of the Prisons(Bombay Furlough and Parole)Rules,1959 has been rejected.

3. According to the learned counsel for the petitioner, the father of the petitioner is suffering from serious illness, which the respondent No.1 did

not take into consideration. Certain medical papers are annexed with the present petition.

4. Mr.Ghodeswar, learned APP invited attention of this Court to the material on record and demonstrated that papers pertaining to the alleged serious illness of the father of the petitioner were not placed before the respondent No.1 and that therefore, no fault can be found with the impugned order.

5. We are of the opinion that under Rule 19(2)(a) of the aforesaid Rules, parole can be granted to a convict on the ground of serious illness of father. In the present case, the petitioner claims that his father is seriously ill. But a decision on such a prayer under Rule 19(2)(a) of the said Rules can be considered only if relevant material is placed before the respondent No.1. In the present case, since supporting documents were not placed on record, we do not think that any error can be attributed to the respondent No.1 in passing the impugned order.

6. Nevertheless, if there is indeed material available with the petitioner to support his case for grant of parole under Rule 19(2)(a) of the aforesaid Rules, an opportunity can be granted to the petitioner to place such material before respondent No.1.

7. In view of the above, the writ petition is allowed.

8. The impugned order is quashed and set aside. The matter is remitted back to the respondent No.1 for fresh consideration.

9. Liberty is granted to the petitioner to place on record documents and other material in support of his claim that his father is suffering from serious illness for which he is entitled for grant of parole under the said Rules.

10. The additional documents and material shall be placed on record before the respondent No.1 by the petitioner within three weeks from today.

11. The respondent No.1 is directed to decide the application after taking into consideration such material, if any, filed by the petitioner, within a period of **six weeks** from today.

JUDGE

JUDGE