

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

CRIMINAL WRIT PETITION NO. 648 OF 2022

Kailash @ Mahesh S/o Ashok Panchal ..VS.. State of Maharashtra & another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.Y. Sharma, Advocate for the petitioner.
Mrs. N.R. Tripathi, A.P.P. for the respondents.

CORAM : ROHIT B. DEO AND URMILA JOSHI-PHALKE, JJ

DATED : NOVEMBER 18, 2022

Heard.

2. Learned counsel Mr. A.Y. Sharma for the petitioner submits that the order rejecting parole does not address the issue whether the illness of the mother of the convict is serious.

3. This submission is made without prejudice to the first submission that the rejection on the ground that the petitioner is convicted under the Maharashtra Control of Organised Crime Act, 1999 and that the complainant and witnesses may be threatened or harmed, is bad in law, since there was no such apprehension in the mind of the Authority when the petitioner was earlier released on furlough.

4. We find *prima facie* substance in the submission that since the petitioner was earlier released on furlough, the apprehension that he would threaten or harm the complainant and witnesses is not well founded.

5. However, we note from the statutory scheme that the illness of the mother or father has to be serious in order to entitle the convict to release on parole.

6. Since there is no discussion in the order on the said aspect, we quash the order of rejection of parole and direct the Authority to pass fresh reasoned order within next seven days.

7. The Writ Petition is partly allowed.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

Kirtak