

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

CRIMINAL WRIT PETITION NO.733 OF 2022

Petitioner : Rohit s/o Tangappa Joseph,
Aged 45 (C-5912), Central Prison, Amravati,
Dist. Amravati.

– Versus –

Respondents : 1) State of Maharashtra,
through Divisional Commissioner, Amravati,
Dist. Amravati.

2) The Superintendent Central Prison, Amravati,
Dist. Amravati.

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Shri A.Y. Sharma, Advocate for the Petitioner.
Mrs. Nandita Tripathi, A.P.P. for the Respondents.

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CORAM: **SUNIL B. SHUKRE AND M.W. CHANDWANI, JJ.**

DATE : **25th NOVEMBER, 2022.**

ORAL JUDGMENT : *(Per Sunil B. Shukre, J.)*

Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

02] The reply filed by the State is taken on record. The petitioner has sought for grant of regular parole on the ground of serious illness of his wife, who has been advised surgery in respect of some ailment developed in her uterus. The petitioner, who has been convicted for an offence of an organized

crime punishable under the Maharashtra Control of Organised Crime Act, 1999 ('MCOC' Act for short), has been denied regular parole on the ground that his release is not recommended by the concerned Commissionerate, which is the requirement of Rule 4(4) of the Prisons (Bombay Furlough and Parole) Rules, 1959 ('Rules of 1959' for short).

03] According to the learned A.P.P, the petitioner is not entitled to be released on regular parole, as his case would be covered by a category of prisoner stated in sub-rule 13 of Rule 4 of the Rules of 1959. The learned Counsel for the petitioner, however, submits that MCOC Act convicts are not covered under this category.

04] On perusal of Rule 4(13) of the Rules of 1959, we find that the learned Counsel for the petitioner is right. The convicts of organized crime do not fall within the scope of sub-rule 13 of Rule 4, which is a category of prisoners not eligible for grant of regular furlough or regular parole, who have been sentenced for the offences such as terrorist crimes and kidnapping for ransom. It is an admitted fact that the petitioner has not been sentenced for any of these offences. These offences do not relate to any organized crime committed under the provisions of the MCOC Act. Therefore, on this ground, regular parole cannot be denied to the petitioner.

05] As regards the non-recommendation of the petitioner by the concerned Police Commissioner, we find that the reasons stated in the police report are of routine nature, written almost like a cliché. There is no material, which is referred to therein on the basis of which one can say that the petitioner is likely to indulge in any violence or breach the liberty granted to him. In fact, there is also a surety, who has undertaken the return of the petitioner.

06] Thus, we find that there is no ground whatsoever for which regular parole could be refused to the petitioner. The petition, therefore, deserves to be allowed.

07] The petition is allowed. We direct respondent No.1 to grant regular parole to the petitioner for such days as he would be entitled to and on such conditions as may be imposed in the discretion of respondent No.1. The order granting regular parole shall be passed by respondent No.1 within two weeks from the date of receipt of the order. Rule is made absolute in the above terms with no order as to costs.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

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