

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

CRIMINAL WRIT PETITION NO.813 OF 2022

Petitioner : Avinash Bhimrao Bagade,
Convict No.C/9392, Aged 29 years, Occ. Nil,
R/o Plot No.219, Nagar, Behind Bharat Petrol Pump,
Jaripatka Police Station, Nagpur
(Presently Confined at Central Prison, Nagpur)

– Versus –

Respondents : 1) State of Maharashtra,
through Deputy Inspector General of Prison,
Eastern Region, Nagpur.
2) The Superintendent Central Prison, Nagpur.

Mrs. Shweta Wankhede (Chavhan), Advocate for the Petitioner.
Mrs. Nandita Tripathi, A.P.P. for the Respondents.

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 petitioner has been granted special parole of four days to enable him to attend marriage ceremony of his brother on 27/11/2022 at Bhilde Mangal Karyalaya, Ambada Road, Behind Kavita Talkies, Paratwada,

District Amravati. However, the conditions imposed for such a grant, according to the learned Counsel for the petitioner, are burdensome. One condition is of the police squad, the expenditure of which is to be borne by the petitioner. Another condition is of furnishing of security bond of Rs.25,000/- and furnishing a solvent surety of Rs.25,000/-. The learned A.P.P, however, submits that the conditions have been imposed in accordance with the amended Rules, which have been notified on 10/02/2022 and, therefore, there is no need for interfering with the impugned order.

03] The learned Counsel for the petitioner submits that the petitioner is financially poor and is not in a position to comply with such burdensome conditions. She, therefore, prays for doing away the conditions or modifying the conditions, especially when there is no special reason mentioned for imposition of such heavy conditions.

04] We find that imposition of these conditions have not been done by following the procedure prescribed in new Rules amended on 10/02/2022. These Rules require the Sanctioning Authority to furnish estimate of the police squad expenditure well in advance to the prisoner. This condition has not been followed by respondent No.1. The respondent No.1 is also required to give special reasons for exercising the discretion to impose such conditions, as

held in the case of *Dilip S/o Sopan Pawar Vs. The State of Maharashtra and another in Criminal Writ Petition No.354/2019* decided on 18/02/2019, which has also not been followed.

05] So, the question would arise as to whether the conditions in question be done away with or modified or not. Considering the fact that the petitioner has been convicted in one more crime by Khandwa Sessions Court, after his conviction in Crime No.421/2011, we are of the view that instead of doing away with the aforesaid conditions, the conditions can be modified suitably. At this stage, the learned Counsel for the petitioner submits that the petitioner is ready to pay amount of Rs.10,000/- as the charges for the police squad. Considering his poor financial conditions, the statement so made by the learned Counsel for the petitioner, on instructions, deserves to be accepted and it is accepted accordingly.

06] In view of above, the order dated 17/10/2022 is hereby modified to the extent of the conditions it imposes and now we direct that the petitioner shall be granted special parole for four days, for the purpose of attending marriage ceremony of his brother at Paratwada, on following conditions.

- i. The petitioner shall deposit an amount of Rs.10,000/- (Rupees Ten Thousand Only) towards expenditure of the

police squad with respondent No.2 before he is released on special parole under the police squad.

- ii. The petitioner shall furnish a security bond of Rs.25,000/- (Rupees Twenty Five Thousand Only).
- iii. The petition is partly allowed in the above terms.
- iv. Rule Accordingly. No costs.
- v. Authenticated copy of this order be furnished to the learned Counsel for the petitioner.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

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