

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1703 OF 2023

Yogesh @ Gharya Rajendra)
@ Rajabhau Jadhav)
Age: 28 Years, Occ:- Nil)
Resident of Nashik having)
address at House No.5,)
Murlidhar Nagar, Pathardi,)
Nashik)
Confined at Nashik Central)
Jail, Jail Road, Nashik)

...Petitioner

Versus

1. The State of Maharashtra)
 2. The Superintendent, Nashik)
Central Prison, Nashik)
 3. The Additional Director)
General of Police And Inspector)
Of Prison and Correctional)
Services, Maharashtra State,)
Pune-411 001)
 4. Reserve Police Force, Nashik)
Police Headquarters, Nashik)
- ...Respondents

Mr. Manas N. Gawankar a/w. Ms. Anusha P. Jaibhave, for the Petitioner.
Ms. M.H. Mhatre, APP for the State

**CORAM : SUNIL B. SHUKRE &
M.M. SATHAYE, JJ.**

DATED : 3rd MAY, 2023

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

1. Leave to amend the prayer clause is granted. Amendment be carried out forthwith.

2. The Report of Deputy Superintendent, Nashik Road, Central Prison is taken on record and marked "A" for identification.

3. Rule. Rule made returnable forthwith. Heard finally, by consent of the parties.

4. While there is no dispute about the fact that for granting regular parole to a prisoner, there is no provision in the Prison Rules for imposing a condition of release of the prisoner on parole under the Police Escort, this condition of Police Escort has nevertheless been imposed in the present case.

5. It appears from the Police report that disturbance of the law and order situation on account of the release of the Petitioner on parole was perhaps the reason that made the Competent Authority to impose such a condition. But, the factor so considered by the Competent Authority appears to be based upon an apprehension, which is not supported by any reasonable material. It is a general apprehension which has been expressed here and it is our experience that it is being expressed repeatedly in many cases. If there is any such apprehension like disturbance of law and order situation or influencing the witnesses, in fact, in a case where prisoner has already been convicted, there is no question of prisoner pressuring or tampering prosecution witnesses, the Police report must refer the material on the basis of which such an opinion

has been formed by the Competent Authority. That material is absent from the Police report, document “A”. Therefore, we are of the view that the condition of Police Escort imposed in the impugned order is illegal and cannot be sustained in the eye of law. It deserves to be quashed and set aside.

6. In the facts and circumstances of the case, the impugned order to the extent of imposing condition of Police Escort is quashed and set aside and we direct the Competent Authority to grant regular parole to the Petitioner on such reasonable conditions, as are permissible in law, within a period of seven days of the receipt of the writ of this Court.

7. Rule is made absolute in the aforesaid terms. No order as to costs.

8. Writ petition is disposed of.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]