

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

CRIMINAL WRIT PETITION NO. 2114 OF 2023

Saket s/o Vikas Panse	...	Petitioner
Versus		
State of Maharashtra & Ors.	...	Respondents

Mr. Rupesh A. Jaiswal for the Petitioner.
Mrs. S. D. Shinde, APP for the Respondent No.1-State.

**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 3rd JULY, 2023

P.C. :-

- . Heard Mr. Jaiswal, learned counsel appearing for the petitioner.
2. The challenge in the petition is to order dated 2 December 2016 passed by respondent no.1 and the order dated 26 May 2022 passed by the respondent no.2 whereby rejecting the appeal preferred by the petitioner against the first order i.e. order dated 2 December 2016 passed by respondent no.1.
3. The petitioner, a life convict, was ordered to be released on parole vide order dated 10 August 2016 for a period of 30 days i.e. from 1 September 2016 to 30 September 2016. Subsequently, an extension of 15 days was granted to the petitioner for a period from 1 October 2016 to 15 October 2016.

4. The petitioner, thereafter, approach the said authorities seeking extension upto a period of 90 days in regard to the serious ailment suffered by his father. It is claimed that the father of the petitioner is suffering from paralysis and is unable to carrying out his day to day routine activities. It is claimed that petitioner is sole male member in the family and as such, it is claimed that the extension which is granted to him of 15 days should have been for total 90 days i.e. 30 days + 60 days. Pursuant to the provisions of the Rule 25 of the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short 'Rules, 1959'). According to him, the interpretation of the provisions has to be to the benefit of the petitioner convict having regard to the law laid down by the Apex Court in the matter of ***State of Haryana & Ors. v/s. Jagdish*** reported in ***(2010) 4 SCC 216***.

5. The learned APP would oppose the prayer as according to her, the prayer of the petitioner was duly considered by two authorities and have concurrently held that the petitioner is not entitled for extension. According to her, even the doctor certificate does not specify as the necessity of the petitioner to be present so as to attend his father. She would further urge that after the earlier hearing of the petitioner way back in the 2016, consecutively the petitioner has availed facility of parole as per the aforesaid rules till this date and as such, this Court after a lapse of almost 7 years shall not exercise discretionary relief in favour of the petitioner.

6. We have appreciated the aforesaid submissions.

7. The petitioner was initially granted parole for a period of 1 September 2016 to 30 September 2016 vide order dated 10 August 2016. The Divisional Commissioner vide its order dated 2 December 2016 extended the said benefit of parole from 1 October 2016 to 15 October 2016.

8. The fact remains that the Rule 25 of the said Rules 1959 provides for extension of period of parole which can be maximum for a period of 90 days. Admittedly, in the case in hand, the petitioner has enjoyed the parole facility for a period of 45 days. The fact that the petitioner, a life convict, can claim the parole for a period of 90 days by virtue of the provisions of extension as provided in Rule 25 cannot be a fact in dispute.

9. The fact remains that after the prayer of the petitioner was rejected by the first Authority i.e. respondent no.1 on 2 December, 2016. The respondent no.2 set over the file of the petitioner for almost 6 years and vide second impugned order dated 26 May 2022 rejected the prayer of the petitioner. As such, it would be said that the petitioner was at parole in pursuance to his remedy of having extension extension in Rule 25 of the said Rules 1959.

10. The fact that the petitioner has a germane cause for seeking extension is rightly so appreciated by the Divisional Commissioner as can be inferred from the order dated 2 December 2016 whereby the extension of 15 days granted in his favour was duly approved.

11. In the aforesaid backdrop, having regard to the fact that the petitioner's claim is that he is the sole male member in the family and required to attend his ailing father, is not disputed or such claim has been disputed is not born from the record of the respondent authority. We deem it appropriate to grant him extension of 45 days to which he is entitled as per Rule 25 of the said Rules 1959.

12. As such, the orders rejecting the prayer for grant of extension which are impugned in the present petition are set aside. The petition is allowed in terms of prayer clause 9(D).

13. We hereby direct the respondents-authorities to grant extension of parole to the petitioner for a period of 45 days in the facts and circumstances of the case.

14. Let the aforesaid order be communicated to the petitioner, granting him extension of parole, in any case within 15 days from today.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]

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