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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3538 OF 2023.

Nitin s/o Nathu Wadile
(Convict No. 46559).

...Petitioner.

V/s.

The State of Maharashtra & Others.

...Respondents.

Mr. Abhishek Kulkarni and Mr. Sagar Wakale for the Petitioner.
Mr. Avinash D. Kamkhedkar, APP for the Respondent-State.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 20th October, 2023.

P. C. :

1. Petitioner, father of Master Chinay Nitin Wadile, aged about 14 years, has invoked jurisdiction of this Court under Article 226 of the Constitution of India, seeking emergency medical parole on the ground that his son, who requires special care and attention, has been advised to undergo brain tumor surgery by the K.E.M. Hospital run by the Municipal Corporation of Greater Mumbai.
2. Record indicates that, Petitioner is convicted for the offence punishable under sections 7, 13(1)(d) read with 13(2) of the Prevention

of Corruption Act, 1988 by the trial Court and was sentenced to undergo sentence for a period of 5 years. The said conviction and sentence has been upheld by this Court in Criminal Appeal No.475 of 2013 by Judgment and Order dated 5th May 2021. The Hon'ble Supreme Court confirmed the conviction of Petitioner, however reduced the sentence from 5 years to 4 years. As per the submissions of learned Advocate for the Petitioner, the Hon'ble Supreme Court has directed the Petitioner to undergo the sentence and since 24th April 2020, Petitioner is behind the bars.

3. Learned Advocate for the Petitioner submitted that, the presence of Petitioner is necessary while his son undergoes the said complicated surgery at K.E.M. Hospital, Mumbai.

4. Present petition was called out for hearing in the morning session. We had directed learned APP to take instructions from the concerned and the petition thereafter is taken up for hearing in the second session.

4.1. Learned APP on instructions from Dr. Dheeraj Arade, K.E.M. Hospital, Mumbai submitted that, as a matter of fact on 16th October 2023, Master Chinay has undergone the brain tumor surgery and is presently recuperating in the hospital under the observation of doctors.

He submitted that, the condition of son of Petitioner is presently medically stable.

5. It is not in dispute that, the son of the Petitioner is a differently abled person and requires special care and attention. Though his condition is medically stable, he requires more care and attention. In view thereof, we deem it appropriate to grant emergency medical parole to the Petitioner for a period of 7 days from 22nd October 2023 upto 29th October 2023.

5.1. Hence, the following Order.

- (1) Petitioner be released on emergency medical parole from 22nd October 2023, for a period of 7 days.
- (2) Petitioner shall report back to the Jail Authority on or before 5.00 p.m. of 29th October 2023.
- (3) Before his release from jail, Petitioner shall furnish cash security of Rs.25,000/- with the Superintendent of Nashik Road Central Prison wherein he is undergoing sentence.
- (4) If Petitioner reports back to the Jail Authority within the stipulated period, i.e., on or before 5.00 p.m. of 29th October 2023, the Superintendent of Nashik Road

Central Prison is directed to refund the said security amount of Rs.25,000/- to the Petitioner within a period of 3 days thereafter.

6. Petition is accordingly allowed in aforesaid terms.
7. All the concerned to act upon an authenticated copy of this Order.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)