

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

**CRIMINAL WRIT PETITION NO. 62 OF 2023**

Rahul s/o Babanrao Bhad  
Aged about 24 years,  
Prisoner No.C/5889,  
Central Jail, Amravati.  
District – Amravati.

} ... Petitioner

**Versus**

1. State of Maharashtra,  
Through its Secretary,  
Home Department Mantralaya,  
Mumbai-32.
2. Director General of Police,  
World Trade Centre, 30<sup>th</sup> Floor,  
Cuff Parade, Mumbai-400005.
3. Divisional Commissioner,  
Amravati Division, Amravati.
4. Additional Superintendent of Police  
(Rural), Amravati, District – Amravati.
5. Police Station Officer,  
Police Station, Anjangaon (Surji),  
District – Amravati
6. Superintendent of Jail,  
Central Jail, Amravati,  
District – Amravati
7. Gauhar Hasan,  
Incharge Additional Superintendent of Police,  
Amravati, District – Amravati .

} ... Respondents

Mrs. Deepa Charlewar, Advocate (appointed) for petitioner.  
Ms. Nandita Tripathi, APP for respondents/State.

CORAM : VINAY JOSHI, AND  
VALMIKI SA MENEZES, JJ.  
DATE : 26.07.2023.

**ORAL JUDGMENT: (PER: Vinay Joshi, J)**

**Rule.** Rule made returnable forthwith. Heard finally by consent of both the learned counsel for the parties.

(2) The petitioner has been convicted in Sessions Trial No.33/2018 for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life along with fine. The petitioner is in jail for the period of more than four years. The petitioner has applied for regular parole on account of illness of his mother. Respondent No.3 – Divisional Commissioner, Amravati, vide impugned order dated 25.07.2022 has rejected the application on the ground that in case of release there would be disturbance of public peace and tranquility, thus, in accordance with Rule 4 (4) of the Prison Manual, the application has been rejected. Moreover, it is stated that there are other family members who could take care of mother as well as the surety is age old.

(3) The petitioner's mother is suffering from illness

which is not in dispute. There may be other relatives, however, it is petitioner's desire to take care of his mother at crucial period. It appears that only on account of likelihood a committing cognizable offence, the application has been rejected.

(4) We have gone through the report filed by Superintendent of Police, Amravati, which merely says that as per enquiry made by head constable there are likelihood of causing disturbance. No material is adduced on the basis of which the police have formed such opinion. The reply affidavit does not specify the grounds to believe that there is likelihood of committing breach. Moreover, respondents have not placed any criminal antecedents of the petitioner. Besides that once the petitioner was released on furlough leave who has returned on the due date. The impugned order of rejection is not based on some material, therefore, it is unsustainable in the eyes of law. In view of above, we proceed to pass the following order.

#### **ORDER**

. The impugned order dated 25.07.2022 is hereby quashed and set aside. The respondents are directed to grant parole

leave to the petitioner as per entitlement. Necessary consequential order shall be passed within three weeks from the date of communication of this order.

(2) Rule is made absolute in above terms.

(3) Fees of appointed learned counsel be paid as per rules.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]