



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

CRIMINAL WRIT PETITION NO. 459 OF 2023

PETITIONER : **Golu @ Salim Khan Gaffar Khan Pathan**
(C-5788), Aged about 27 years,
Occ : NA, R/o Nehru Nagar, Babhulgaon,
Tah. Babhulgaon, Distt. Yavatmal.

V E R S U S

RESPONDENTS : 1. **Divisional Commissioner,**
 Amravati, Dist. Amravati.

 2. **Superintendent of Police,**
 Yavatmal.

Mrs. Ratna Singh, Advocate for petitioner.
Mrs. N. R. Tripathi, Additional Public Prosecutor for respondent Nos.1 & 2.

CORAM:- VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.

DATED : 07/09/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.
2. The petitioner was convicted for the offence punishable under Section 302 of the Indian Penal Code vide Judgment and order dated 27/07/2019 and he is suffering the sentence. It is submitted that during trial, the petitioner was in jail and thus, he has undergone the imprisonment for about six years and 50 days. The petitioner has applied for regular parole on account of illness of his father. The respondent No.1 - Divisional Commissioner called the report from the Superintendent of Police and it being

adverse vide impugned order dated 19/04/2023 declined to grant regular parole, which is impugned herein.

3. The State has filed reply affidavit stating that as per Rule 19(3) r/w Rule 4(4) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, the petitioner is not eligible for furlough on account of adverse police report. Moreover, it is submitted that petitioner was convicted in the case of murder, which makes him dis-entitled for relief claimed. The petitioner has pleaded that in past, thrice he was released on parole and on each time, he returned on due date. During the said period, no offence was registered against him nor such grievance is made by the Authority.

4. We have minutely gone through the impugned order, which bears the reference of adverse police report dated 20/03/2023. Perusal of the report indicates that In-charge of Police Station has merely stated that if petitioner is released, then there is likelihood of breach of peace and he may threaten the family members of deceased. However, there is no material to substantiate the said contention. Apparently, on mere speculation, the petitioner's right of regular parole, if otherwise eligible, cannot be taken away.

5. The petitioner has sought parole on account of illness of his father. The impugned order bears a reference that the petitioner has produced the relevant medical certificate from the Government Hospital, Amravati. There is no denial by the respondents nor the cause canvassed by the petitioner has been suspected. There is no embargo under the Rules to accord the benefit of regular parole in case of murder convict.

6. We see no justification for denial of the regular parole, hence, petition is allowed. We hereby quash and set aside the impugned order dated 18/04/2023. We direct respondent No.1 to pass appropriate order of regular parole by imposing suitable conditions to its own satisfaction. The said order shall be passed within two weeks from today.

7. The Superintendent of Police, Yavatmal shall inform compliance to the Registry of this Court within four weeks from today.

8. Rule is made absolute in above terms.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]