



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

CRIMINAL WRIT PETITION NO.584 OF 2023

Petitioner : Gajanan S/o Nimbaji Parekar,C-643,
Aged about 35 Years,
Presently detained in Open Prison, Morsi,
Amravati.

– Versus –

Respondents : 1. State of Maharashtra,
Through Superintendent of Jail, Amravati Jail,
Amravati, Maharashtra.
2. The Divisional Commissioner of Amravati,
Amravati, Maharashtra.

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Mr. Ishant Tambi, Advocate (Appointed) for the Petitioner.
Mrs. N.R. Tripathi, A.P.P. for the Respondents.

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CORAM : **VINAY JOSHI AND M.W. CHANDWANI, JJ.**
DATE : **9th NOVEMBER, 2023.**

J U D G M E N T : *(Per Vinay Joshi, J.)*

Rule. Rule made returnable forthwith. Heard finally with
the consent of the learned Counsel for the parties.

02] This is an application seeking grant of regular parole on
account of construction of house in pursuance of government scheme
floated vide Government Resolution dated 09/03/2011.

03] It is the petitioner's case that he is a member of Scheduled Caste/ Scheduled Tribe (SC/ST). The petitioner claims that he does not have a house for residence. The State Government has floated a scheme vide Government Resolution dated 09/03/2011 for allotting a house and premises for the members of SC/ST community on certain parameters. The petitioner would submit that he was found eligible for allotment of house under the Government Resolution and to construct a house under the said scheme, he seeks for regular parole.

04] The learned Counsel appearing for the petitioner would submit that in terms of Rule 19(3)(A)(iii) of the Prisons (Bombay Furlough and Parole) Rules, 1959 (hereinafter referred to as "Rules" for short), he is entitled to seek regular parole for construction of a house. According to him, cause canvassed would fall under sub-clause (3)(A)(iii) of Rule 19, since the words "etc." has been used in the Rules itself.

05] For the purpose of convenience, we are reproducing Rule 19(3)(A) as below :-

“(3) Regular Parole -

(A) All the prisoners eligible for furlough shall be eligible for regular parole, which may be granted on any of the following grounds or reasons:-

(i) Serious illness of father/mother/spouse/son/daughter.

(ii) Delivery of wife (except high security risk prisoners)

(iii) In case of natural calamities such as house collapse, flood, fire, earthquake, etc.”

06] It is submitted that regular parole is available on account of collapse of house due to natural calamities. He would submit that though certain situations have been incorporated in the Rule i.e. flood, fire, earthquake, however, the same is not exhaustive, as the term “etc.” has been used. Reading of the clause (iii) postulates that rule is made for redressal of the prisoner come out from natural calamity.

07] In the case at hand, the petitioner does not have a residential house. Admittedly, it is not a case that his house has been dilapidated or collapsed by natural calamity even for other reason. The petitioner desires to construct a new house by availing the benefit of Government Scheme. We cannot expand the scope of Rules, which is meant to meet the natural calamities and not for creation of new

rights. The term “etc.” is to be used in consonance with Rule 19(3)(A) (iii) of the Rule itself.

08] In view of that, the cause canvassed for regular parole is not available under Rule 19(3) of the Rules. Hence, the petition stands dismissed. Rule is discharged.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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