IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 9780 of 2024

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SHAILESH ATMARAM THAKOR

Versus

STATE OF GUJARAT & ORS.

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Appearance:
ADITYA R PARIKH(8769) for the Applicant(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2,3
MR HA DAVE, PP, MS MD MEHTA, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 11/09/2024

ORAL ORDER

Rule. Learned APP waives service of rule for the Respondent-State.

1. By way of this petition, the petitioner has prayed for the following reliefs;

> *"16. …*
>
> *(A) This Hon'ble Court may be pleased issue a writ of mandamus or any other appropriate writ, order or direction and be pleased to direct the Respondent authorities to release the present petitioner from jail as he has served a sentence of more than 14 years and has been in custody since 2007;*

(B) This Hon'ble Court, during the pendency of this petition and till the decision of releasing the petitioner is taken by the Respondent authorities, may be pleased to release the petitioner on long term parole leave from the prison;

(C) This Hon'ble Court may kindly dispense with filing of the affidavit as the present petitioner is in Jail;

(D) This Hon'ble Court may be pleased to grant such other and further reliefs as may deem just and proper looking to the facts of this case and in the interest of justice."

2. Learned Advocate for the petitioner submitted that the petitioner's application for remission, made under Section 433 of the Code of Criminal Procedure, 1973, is pending before the State / competent authority for long time and no decision is taken thereon, till date. Therefore, by way of miscellaneous application, the petitioner has prayed for grant of parole leave, till his application for remission is decided by the State / competent authority.

3. Learned PP, Mr. Dave, appearing with learned APP, Ms. Mehta, for the Respondent-State, under the instructions, assures this Court that the petitioner's application for remission shall be decided by the State / competent authority as early as possible, by keeping in mind the notifications dated 18.07.2023 and 14.08.2024.

3.1 Insofar as, the application of the petitioner for parole leave is concerned, learned PP, Mr. Dave, though, opposed the same, but, considering the fact that the application for the petitioner for remission is pending since long, a request was made that the appropriate orders may be passed.

4. On the other hand, learned Advocate for the petitioner submitted that since the petitioner has undergone long period of incarceration, he may be granted parole, till his application for remission is decided.

5. Having heard both the sides, this Court, in the facts and circumstances of this case, deems it fit to pass the following order and dispose of this petition;

> (1) Respondent – State / competent authority is directed to release the petitioner on parole for the period of ***two weeks,*** on usual terms and conditions;
>
> (2) It is clarified that the petitioner shall make ***no application*** for ***extension,*** on expiry of the period of eight weeks.
>
> (3) On completion of the aforesaid period of eight weeks and after the petitioner surrenders, the State / competent authority is ***directed*** to decide his application for remission as early as possible

and preferably within the period of five months, as prescribed vide notification dated 18.07.2023. If, the decision of the State / competent authority on remission application of the petitioner is adverse, it shall be open for him to challenge the same in accordance with law.

(3) It is clarified that this Court has not entered into the merits of the matter.

Rule / Notice, if any, stands discharged. Direct service is permitted.

(NIRZAR S. DESAI,J)

UMESH/-