



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CRIMINAL WRIT PETITION NO. 650 OF 2024

MAHENDRA S/O KESHRINATH MISTRY
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for petitioner : Mr. Rupesh A. Jaiswal
APP for the respondent – State : Ms. V.N. Patil-Jadhav
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 03 APRIL 2024

PC :

Petitioner is aggrieved by the order whereby he has been granted parole leave, however, subject to the condition *inter alia* of furnishing a bond of Rs.10,000/- together with two sureties in the sum of Rs.20,000/- each.

2. We have heard both the sides.

3. Admittedly, the petitioner is lodged in open prison under the provisions of the Maharashtra Open Prisons Rules, 1971.

4. A Full Bench of this Court in the matter of ***Dipak S/o Sudhakar Wakalekar Vs. State of Maharashtra and others; 2011 ALL MR (Cri.) 1933*** had interpreted proviso to rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959 as laying down the discretion in the authorities to consider the case like that of the

petitioner for parole only on his furnishing personal recognizance. The impugned order does not expressly demonstrate the respondent no.1 having considered this aspect.

5. We allow the writ petition partly.

6. The impugned condition is quashed and set aside.

7. The petitioner is at liberty to apply to the respondent no. 3 seeking relaxation of this condition and simultaneously, directing the respondent no. 1 to pass appropriate order specifically considering the petitioner's entitlement to derive the benefit of proviso to rule 6 as interpreted by the Full Bench in the matter of ***Dipak S/o Sudhakar Wakalekar*** (supra).

8. The decision shall be taken as expeditiously as possible and in any case within one week.

9. Parties to act on authenticated copy of this order.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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