



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

944 CRIMINAL WRIT PETITION NO. 1282 OF 2024

**SATISH SHANKARAO SHINDE
VERSUS
ADDITIONAL DIRECTOR GENERAL INSPECTOR GENERAL AND
ANOTHER**

...
Ms. Sharda P. Chate Advocate for Petitioner.
Mr. N.R. Dayama, A.P.P. for Respondents.
...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 15th OCTOBER, 2024

ORDER :

1. Present Writ Petition has been filed for quashing and setting aside order dated 10th July 2024 and 9th May 2024 passed by respondent Nos. 1 and 2 for grant of sanction of parole leave to the petitioner.

2. Heard learned Advocate Ms. Chate for the petitioner and learned AGP Mr. Dayama for the respondents.

3. The petitioner seeks parole on the ground that his married sister, who is presently around 65 years old, has been suggested with undergoing coronary angiography. His sister's husband expired in 2020 and it has been certified by the Sarpanch of Malegaon, Taluka-Lohara, District-Osmanabad that she has no

issue. Therefore, the petitioner says that there is nobody else to take care of his sister.

4. The application has been rejected on the ground that there is no provision in Rule 19(3)(g) of the Maharashtra Prisons (Mumbai Furlough and Parole (Amendment) Rules (for short "Furlough and Parole Rules") for granting parole in case of illness of sister. The second ground is that the petitioner was given furlough leave and has returned to the prison on 10th April 2024 and therefore, he is not complying with the provisions under Rule 19(3)(g) (ii) of the Furlough and Parole Rules.

5. Though Rule 19(3)(g) as aforesaid, does not prescribe for parole leave in case of illness of the sister, but we are of the opinion that if the sister is dependent on the brother and nobody is there to take care of her or take decision in respect of her health then as an exception we may consider to exercise our constitutional powers in favour of the petitioner.

6. Further as regards Rule 19(3)(g)(ii) of Furlough and Parole Rules rules, which requires that there should be gap of 1½ years between two release / leaves, it can be said that earlier rule which prescribe for the gap of 1 year was quashed and set aside by the Full Bench decision of this Court in ***Bhikabhai Devshi vs. State of Gujrat [1986 CJ (Guj) 39]***, but thereafter it appears that the Government has made amendment and introduced gap of 1½ years in place of one year. The validity of the said rule is under challenge. However, as aforesaid, the petitioner had gone on furlough leave earlier and now he seeks parole leave. This difference we are considering and also we are taking this to be

an exceptional case. Though the petitioner seeks parole leave for 45 days, taking into consideration the period of treatment that will be required, 10 days leave would be sufficient.

7. The Petition stands partly allowed. The orders passed by respondent Nos.1 and 2 on 10th July 2024 and 9th May 2024, respectively, stands quashed and set aside. Respondent No.2 is directed to release the petitioner for 10 days on parole leave on appropriate terms which shall be informed to the petitioner before his release. Such exercise be made within a period of three days from today.

8. Parties to act upon authenticated copy of this order.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/OCT24