



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 CRIMINAL WRIT PETITION NO.1422 OF 2024

Shaikh Raju Gulab @ Raju Jahagirdar
Age: 54 years, Occu.: Nil Convict No.10234,
R/o. Ek Minar Chowk, Old Post Office Road,
Taluka Gangapur, Dist. Chh. Sambhajinagar.

.. Petitioner

Versus

1. The State of Maharashtra
Through Secretary, Home Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Chh. Sambhajinagar.
3. The Superintendent,
Central Prison, Chhatrapati
Sambhajinagar.

.. Respondents

...

Ms. Bharati B. Gunjal, Advocate for the Petitioner.

Mr. A. M. Phule, APP for Respondents/State.

...

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

DATE : 05 SEPTEMBER 2024

ORDER :

. Present petition has been filed for extension of parole leave under Rule 19(C)(iii) of the Prisons (Bombay Furlough and Parole) Rules, 1959 (as amended by Notification dated 10.02.2022).

2. Heard learned Advocate Ms. Bharati B. Gunjal for the petitioner and learned APP Mr. A. M. Phule for the respondents – State.

3. Learned APP, on instructions, is placing on record the information in respect of the application made by the petitioner to the Divisional Commissioner for extension of parole. It appears that the said application was directly filed in the office of the Divisional Commissioner on 16.07.2024. Learned APP informs that it reached parole table on 24.07.2024 and thereafter, when it was noticed that the said application is not signed by the petitioner, the learned Divisional Commissioner has passed the order that it cannot be gathered as to whether the said application has been made by the petitioner or not and, therefore, since it is without signature, order cannot be passed.

4. The way the application has been handled is absolutely not proper. The petitioner was already on parole leave on the ground that his wife was suffering and was about to undergo operation. When the said application was received on 16.07.2024, certainly till 24.07.2024 also it could have been ascertained from the petitioner as to whether the said application has been filed by

him or not. Further, even from 24.07.2024 till 29.07.2024 i.e. the date on which the Commissioner considered the application, there was second opportunity to get the confirmation about the application as to whether it is by the petitioner or not. All these steps have not been taken and straightway the convenient way has been found for not passing the order. In fact, the reason stated in the application ought to have been seen. It was specifically stated that after the tests were conducted, it was found that the blood pressure of the wife is fluctuating and she was suffering from anemia. Unless those issues would have been addressed, her operation could not have been performed. Taking into consideration the humanitarian ground as well as the difficulty, every effort ought to have been made to get the confirmation from the petitioner as to whether the said application has been filed by him or not. Along with the petition, typed copy of the medical certificate dated 15.07.2024 issued by Dr. Suraj S. Rana, the Managing Director (M.D.), Eagle Multispeciality Hospital, Ranjangaon has been produced, wherein it is stated that the wife of the applicant needs blood transfusion, but her blood pressure is fluctuating. After the blood transfusion, the surgery would be performed when the patient is fit. Thus, it

appears that her medical condition is almost same and, therefore, we take this as an exceptional case to grant 15 days parole leave, though factually the petitioner has surrendered on 30.07.2024. The petitioner was constrained to surrender on 30.07.2024 as his surrender date was 29.07.2024 and he had not received communication about the extension.

5. Before parting, one more aspect to be considered is the documents which are tendered by the learned APP show the noting stated to be in respect of application dated 16.07.2024. The said noting starts from 29.07.2024. The office has given its opinion/remark and then on the same day, some officer had stated that since the application is without signature, it is required to be filed. Second signature, which was supposed to be of the officer before whom the application should be put, appears to be of the Tahsildar, but it is said that he was on official tour. The next signature is of the Deputy Commissioner, who has also stated on 29.07.2024 itself that it cannot be gathered in absence of the signature as to whether the said application has been filed by the petitioner or not and, therefore, he gives opinion that the application should be filed. The last signature is of the Commissioner and it appears that below his signature, he has

put the date as 05.08.2024, when that is after the petitioner had already surrendered. When the application is supposed to be decided by the Commissioner, it should not travel with so many authorities and even if it travels, ultimate order ought to have been passed. We deprecate such kind of practice. In fact, when such applications for extension of parole are filed, they should be immediately placed before the authority, who is supposed to take the decision. For the aforesaid reasons, we proceed to pass the following order :-

ORDER

- I) Writ Petition is allowed.
- II) Respondent No.2 should consider the application dated 16.07.2024 filed by the petitioner as the application of the petitioner and grant him parole leave for 15 days. Such order to be passed within a period of two days from today and be communicated to the petitioner.
- III) Parties to act upon an authenticated copy of this order.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm