



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL WRIT PETITION NO. 1449 OF 2024

Raj S/o Namdev Jadhav (10152)
Aged about 23 years, Occ. Nil,
R/o- at post Takli Tanda, Tq. Khultabad,
District Ch. Sambhajinagar serving life
Imprisonment Harsool Prison District,
Ch. Sambhajinagar.

... Petitioner

Versus

1. The State of Maharashtra
Through its Secretary, Home Department,
Mantralaya, Mumbai-400 032.
2. The Divisional Commissioner
Ch. Sambhajinagar Division.
3. The Superintendent
Harsool Central Prison
District Ch. Sambhajinagar.

... Respondents

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Advocate for the Petitioner : Mrs. Sharada Pundlik Chate
APP for Respondent-State : Mr. M. K. Goyanka
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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 13 AUGUST 2024

PER COURT :-

1. Present petition is filed for directions to respondent no.2 to decide the petitioner's application for extension of parole leave.
2. Heard learned Advocate Mrs. Chate for the petitioner and Mr. Goyanka for learned APP for respondent-State.
3. Learned Advocate for the petitioner submits that petitioner had submitted application before respondent no.2 on 28.03.2024 for medical parole for 45 days in order to meet the urgent medical condition, treatment and surgery of his mother. She was suggested to get the MRI done and the Doctor had diagnosed that she is suffering from LS strain with right lower limb radiculopathy with neurological claudication. Earlier, the surgery of his mother was fixed on 02.08.2024 and the petitioner's surrender date was due on 30.07.2024. He filed application for extension of said period and it was then extended by respondent no.2. Thereafter, though surgery was fixed on 02.08.2024, but due to her blood pressure and sugar issue, Doctor postponed the surgery. Now, the surrender date of the petitioner is 14.08.2024 and the tentative surgery date is 20.08.2024, and therefore the present petition has been filed.

4. Learned Advocate appearing for the petitioner has placed on record the latest medical reports which suggest that the mother of petitioner has been again advised to get MRI done upon fresh blood report and therefore it is stated that the tentative date of admission is 18.08.2024 and the date of surgery is 20.08.2024. This indicates that still nothing is certain. We could not get the exact reason as to why still the MRI was not got done. Then, if we are to interpret the certificates, it appears that only upon control of the blood pressure and diabetes, the MRI would be done and then the surgery would be planned. When the things are uncertain, no question of further extension will arise because already the extension has been granted, without intervention of the Court, by respondent no.2.

5. Learned APP also places on record order passed by the competent authority on 03.07.2024 granting furlough leave of 21 days to the petitioner. It is stated that the petitioner has not availed the said leave though order is passed. Learned APP, upon instructions, makes a statement that if the bond is furnished as per the order dated 03.07.2024, then the petitioner can be released within an hour.

6. What is important is that the petitioner should be by the side of his mother when the actual surgery takes place and at this stage, it appears that it is uncertain. Therefore, we do not find that extension can be the solution. Rather, when statement is made that upon furnishing of the surety, petitioner can be released within an hour, then, petitioner can avail the said leave. Under the said circumstance, with the said observations, the petition stands disposed of.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]

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