



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.629/2023

Murtuja @ Munna Dawal Sheikh,
Convict No.C/9377, Aged 36 Yrs.,
Occ. Nil, Address Kelewadi,
Kothrud, Pune.
(Presently at Nagpur Central Jail).

... Petitioner

- Versus -

1. State of Maharashtra,
through Divisional Commissioner,
Nagpur.

2. The Superintendent, Central Prison,
Nagpur.

... Respondents

Mrs. Shweta Pritam, Counsel for the Petitioner.
Mrs. Nandita Tripathi, A.P.P. for Respondents.

CORAM: VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 22.3.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner has applied for regular parole on account of illness of his wife, however, it has been rejected by respondent No.1-Divisional Commissioner, Nagpur vide impugned order dated 31.7.2023. The rejection is on account of adverse police report. While resisting the petition it is contended in reply affidavit that the concerned police have not recommended the petitioner's case for regular parole on account of adverse report. Moreover it is stated that the petitioner is ineligible since a period of one and half year of actual imprisonment has not been passed from his earlier release.

3. So far as the second ground is concerned the same has not been assigned by the authority while rejecting the parole application. It is well settled that reasons cannot be supplemented by filing affidavit. Moreover in view of Full Bench decision of this Court in case of Writ Petition No.1046/2018 (Kantilal Nandlal Jaiswal V/s. Divisional Commissioner, Nagpur Division,

Nagpur and Anr.) decided on 7.8.2019 the said reason would not survive.

4. As regards to other ground we have examined the police report dated 8.7.2023 filed by Police Commissioner, Zone 3, Pune City. It is stated that the manner in which the accused had committed crime in which he was convicted it can be assumed that he is of criminal and cruel nature and thus if released he may threaten to the witnesses. It is apparent that it was a mere speculation of police authorities on the basis of crime in which the petitioner was convicted in the year 2010. Besides that no supporting material has been adduced to substantiate rejection on account of anticipated threat to the public peace or tranquillity. Moreover, the reason of wife's illness has not been disputed by the State. In the circumstances, impugned rejection is wholly unjustifiable.

5. In view of the above, authority could not have rejected regular parole leave. The impugned order is set aside. We hold that petitioner is entitled for regular parole for the illness of his wife. The authority shall pass appropriate consequential order within four weeks by imposing suitable conditions as the authority may deem fit. Petition stands disposed in above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)