



Judgment

wp667.23

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

CRIMINAL WRIT PETITION No. 667 OF 2023.

Kunal Anil Jaiswal,
Aged 40 years, resident of
Sawarkar, Tahsil Narkhed,
District Nagpur.
C/690, Morshi Open Prison,
Amravati).

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PETITIONER.

VERSUS

1.Divisional Commissioner,
Amravati Division,
Amravati.

2.Superintendent of Prison,
Open Prison, Morshi,
District Amravati.

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RESPONDENTS.

Ms S. Khobragade, Advocate for the Petitioner.
Ms N. Tripathi, A.P.P. for Respondents.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : FEBRUARY 02, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

Rule. Rule is made returnable forthwith and by consent of the learned Counsel present for the parties, the matter is taken up for final disposal.

2. The petitioner has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is serving life sentence. The petitioner has completed 9 years of imprisonment and presently he is housed in Open Prison. The petitioner has applied for regular parole leave on account of illness of his mother. Respondent no.1- authority has obtained police verification report which has favoured the petitioner, however, the respondent has rejected parole leave on the ground that the petitioner is ineligible in terms of Rule 19[c][ii]] of the Prison (Bombay Furlough and Parole) Rules, 1959 which provides that the prisoner would be entitled for second parole only after 1 ½ year from his earlier release.

Rgd.

3. The issue is squarely covered by the Full Bench decision of this Court in case of **Kantilal Jaiswal .vrs. Divisional Commissioner, Nagpur – 2019 [6] Mh.L.J. 186**, which was followed in several other decisions, including the decision in case of **Amit Gandhi .vrs. State of Maharashtra – Criminal Writ Petition No.47/2023 decided on 24.01.2023**. Besides that the police verification report is favourable, hence, the denial on account of Rule 19[c][iii] of the Rules would not sustain in the eyes of law. In view of above petition needs to be allowed. Hence the following order.

ORDER

- (i) Criminal Writ Petition is allowed and disposed of.
- (ii) The impugned order dated 11.07.2023 passed by the Divisional Commissioner, Amravati Division, Amravati is hereby quashed and set aside. The petitioner is held entitled to regular parole for the period as permissible in law. The Authority shall pass appropriate orders in that regard within a period of two weeks from the date of

receipt of this order, by imposing suitable conditions as it may deem fit and proper.

- (iii) Rule is made absolute in aforesaid terms.

JUDGE

JUDGE