



Judgment

wp722.23

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

CRIMINAL WRIT PETITION No. 722 OF 2023.

Rupesh @ Bhurya son of Shrawan
Kakde – C-5489,
Aged about 29 years, Occupation – Nil,
resident of Central Prison, Amravati,
District Amravati.

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PETITIONER.

VERSUS

1.Divisional Commissioner,
Amravati Division, Bypass Road,
Camp, Tehsil Amravati and
District Amravati 444602.

2.Superintendent of Prison,
Central Prison, Amravati,
Tehsil Amravati and District
Amravati 444602.

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RESPONDENTS.

Mr. S. Jaiswal, 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 Sections 397 and 302 of the Indian Penal Code and is serving life sentence. The petitioner has applied for regular parole on account of illness of his mother. The authority has rejected the said urge of the petitioner on the ground of adverse police report and ineligibility on account of Rule 4[2] of the Prison (Bombay Furlough and Parole) Rules, 1959.

3. The learned Counsel appearing for the petitioner would submit that already co-accused Shoyab Ali has applied for regular parole and having been rejected on the very same ground, this Court has granted parole leave to him. Rather he would submit that this

Rgd.

Court has held that Rule 4[2] of the Prison Rules would not come in the way, if the prisoner has completed the term of sentence imposed for the offence punishable under Section 397 of the Code. We have gone through the said reported judgment of this Court in case of **Shoyab Mehtab Ali .vrs. Divisional Commissioner, Amravati Division and others – 2023 All MR (Cri) 1390**, which squarely applies to the case at hand.

5. As regards the adverse police report, no material has been produced, beside a speculative inference. The petitioner is in jail since last 10 years, and till date he was never released either on parole or furlough. Having regard to said fact, we do not find any justification in not granting the prayer of the petitioner for grant of parole. We therefore, proceed to pass the following order.

ORDER

- (i) Criminal Writ Petition is allowed and disposed of.
- (ii) The petitioner is held entitled to regular parole for the

period as prescribed 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