



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

CRIMINAL WRIT PETITION NO.279 OF 2024

Umesh Shalikram Rathod (C-6063) Aged
about 60 years, Occ:N.A. R/o Samata
Nagar, Gitti Khadan, Wardha, Tah. and Distt. Wardha. **Petitioner**

-Versus-

1. Divisional Commissioner, Amravati, Dist. Amravati.
2. Superintendent of Jail, Amravati Central Prison, Amravati.

Respondents

Ms.Ratna Singh, Advocate for the petitioner.
Ms.Nandita Tripathi, APP for respondents.

**CORAM : VIBHA KANKANWADI AND
MRS.VRUSHALI V. JOSHI, JJ.**

Date of reserving the judgment:- 16.07.2024.

Date of pronouncing the judgment:-22/07/2024

ORAL JUDGMENT (Per : Vrushali V.Joshi, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. The writ petition is heard finally with the consent of the learned counsel for the parties.

3. The petitioner has moved this Court in its extraordinary writ jurisdiction under Article 226 and 227 of the Constitution of India feeling aggrieved by the order passed by the respondent No.2, the Divisional Commissioner, Amravati on 08.02.2024 rejecting the application of the petitioner for parole.

4. The petitioner had sought to be released on parole for 45 days on the ground of illness of his wife. The petitioner is undergoing life imprisonment for the offence punishable under Section 302,307 of the Indian Penal Code. This is his first parole application after undergoing the imprisonment for about 5 years and 6 months. The reason for applying for parole is to attend his wife, who is ill. Superintendent of Amravati expressed his apprehension on 25.01.2024 on receiving opinion from Chandur Railway, Police Station that if the petitioner is released on parole leave, there is possibility of occurrence of law and order situation. Because of quarrel between brother of convict and one Dilip Rathod, there was law and order situation occurred. On receiving the said opinion, the Divisional Commissioner, Amravati on 08.02.2024, not recommended the release of the convict on parole

on the apprehension that there may occur a law and order situation in village.

5. Since his arrest, the petitioner was not released on parole. His wife is seriously ill. He undertakes that he would surrender on time, if the parole is granted to him.

6. Learned APP opposed the application stating that as per the police report, there is every possibility of breach of peace and tranquility, if the petitioner will be released on the parole leave. The quarrel took place between the brother of petitioner Dilip Rathod and Dilip Gulhane and one police constable was appointed on duty in the field Manjarkheda for safety reason at that time and therefore, his application was rejected.

7. As per the G.R dated 10th February 2022 as per sub-clause (g) of Clause-2, if the person is convicted for life or punishment is more than 14 years and if he has completed three years of sentence then he may be considered for leave for parole. The petitioner has sought the leave for illness of his wife. The respondent No.2 has not verified the reason by calling the report and documents about the illness of the wife. The application is

rejected only on apprehension. The petitioner has sought this parole leave for the first time after five years of his conviction. The reason given that there was quarrel between the brother of the petitioner and one person in village and law and order situation was arisen at that time and therefore, the release of this petitioner is not proper. This ground is not correct as he is entitled as per the rules.

8. Hence, the Writ Petition is allowed.

9. The order dated 08.02.204 passed by the respondent No.1-Divisional Commissioner, Amravati is hereby quashed and set aside. Respondents are directed to consider the application of the petitioner for parole leave as per law within a period of one week from today and not to reject on the same reason given earlier.

10. Rule is made absolute in the aforesaid terms. No costs.

(MRS.VRUSHALI V.JOSHI,J) (VIBHA KANKANWADI,J)