



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

CRIMINAL WRIT PETITION NO. 514 OF 2024

PETITIONER : Sheikh Gaffar Abdul Gaffar, Aged 38 years,
R/o Bhaipatar, Patan, Tah.Jivti, District
Chandrapur.
C/11171, Central Prison, Nagpur.

-Versus-

RESPONDENTS : 1) Divisional Commissioner, Nagpur Division,
Nagpur.
2) Superintendent of Jail, Central Prison,
Nagpur.

Ms Sonali B. Khobragade, Advocate for the petitioner.
Mrs. N. R. Tripathi, APP for respondents.

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

DATE : 2ND JULY, 2024

J U D G M E N T (Per : Smt. Vibha Kankanwadi, J.)

Heard.

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

3. The petitioner is aggrieved by the order passed by respondent No.1 on 14/03/2024, whereby the application of the petitioner for parole was rejected. It is stated that the said order is illegal, improper and bad-in-law.

4. The petitioner was convicted for the offence punishable under sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 and sections 489-B, 489-C and 120-B of the Indian Penal Code by the learned Sessions Judge, Chandrapur. The petitioner appears to have made an application for grant of parole on 13/12/2023. It was then submitted that the furlough is a legal right to the prisoner, however, parole is the conditional release. The wife of the petitioner is suffering from stomach pain and the doctors have advised surgery. It is stated that the brother of the petitioner is also convicted in the same case in which the petitioner has been convicted. Except the father, there is no male member in the family. It is then stated that the petitioner should be released on emergency parole.

5. At the outset, the learned APP has strongly objected for even issuing notice, in view of the fact that there is no illegality in the impugned order. She points out that the application was rejected, in view of the fact that the petitioner was not eligible to be released on furlough, in view of Rules 19(2), 4(13) and (17) of the Prisoners

(Bombay Furlough and Parole) Rules, 1959.

6. Perusal of Rule 4(13) of the Prisoners (Bombay Furlough and Parole) Rules would show that the convict, who has been sentenced for the offence punishable such as terrorist crimes, mutiny against State, kidnapping for ransom, are excluded from eligibility for furlough. Rule 19(3)(A) of the Rules states that all the prisoners eligible for furlough shall be eligible for regular parole. The application that was made by the petitioner was for regular parole and not for emergency parole. The words 'regular parole' and 'emergency parole' have been employed intermittently in the petition, which appears to be wrong. Two rules governing them are different. Therefore, we do not find any illegality, even on the face of the order. Case is not even made out for issuing notice to the respondents and to proceed further in the petition. The petition, therefore, stands dismissed at the threshold, however, we grant liberty to the petitioner to make an application for emergency parole, if Rules provide for the same.

7. Rule stands discharged.

(MRS.VRUSHALI V. JOSHI, J)

(SMT.VIBHA KANKANWADI, J)