



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1183 OF 2025

Shahnawaj @ Sanu Badruddin Khan
Age: 50 years, Occu.: Nil,
R/o. Harsool Central Prison,
District Chh. Sambhajinagar.

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary, Home Department,
Mantralaya, Mumbai – 400032.
2. The Deputy Inspector General of Prisons
Western Region Aurangabad
Division Aurangabad.
3. The Superintendent of Harsool
Central Prison,
District Aurangabad.

.. Respondents

...
Ms. Sharda P. Chate, Advocate for the petitioner.
Ms. Vaishali S. Choudhari, APP for the respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 12 SEPTEMBER 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. The petitioner, who is a convict undergoing incarceration, seeks exception to challenge the letter dated 06.08.2025 issued by respondent No.2 rejecting the request of the petitioner for the replacement of his surety. The petitioner further seeks directions to be given to respondent No.2 to replace the surety in order dated 26.06.2025.

2. Heard learned Advocate Ms. Sharda P. Chate for the petitioner and learned APP Mrs. Vaishali S. Choudhari for the respondents/State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. The petitioner came to be convicted under judgment and order dated 07.02.2025 by the learned City Civil and Sessions Court, Mumbai for the offence punishable under Section 302 of Indian Penal Code. He has been sentenced to suffer imprisonment for life. In fact, the petitioner was arrested on 04.10.2016 and since then he was in Arthur Road Jail, Mumbai. Thereafter, he has been transferred to Harsool Central Prison since June 2025. Petitioner's father expired on 13.06.2025 and the petitioner submitted his emergency parole leave application on 20.06.2025. It was sanctioned on 26.06.2025 on condition that the petitioner should execute cash surety of Rs.30,000/-, personal bond of Rs.30,000/- and two guarantor for Rs.1,00,000/- each. The surety whose name was suggested in the parole application could not fulfill the condition and, therefore, the petitioner filed request application to respondent No.2 on 03.07.2025 for the replacement of surety and giving time to fulfill the condition as per order dated 26.06.2025. As the application was pending for long, the petitioner had knocked the doors of this Court by filing Criminal Writ Petition No.1094 of 2025 which was disposed of on 06.08.2025 in view of statement made by learned APP

that the application would be decided within a period of one week. Now, on the same day i.e. on 06.08.2025 the impugned order has been passed stating that the said application has been given after 8 days of validity of the said order dated 26.06.2025. The petitioner submits that his presence is required in view of the post death rituals of his father *Chalisawa Chelam*. He has not taken any leave and, therefore, it is necessary for him also to go and meet his family members.

4. Here, it is to be noted that the petitioner has not challenged the order dated 26.06.2025 stating that impossible conditions were imposed. The replacement only was requested with some different person. It was also tried to be submitted on behalf of the petitioner that the petitioner is originally from Uttar Pradesh and his father was also expired there. He was unable to get the surety. At the cost of repetition, we would say that neither in Criminal Writ Petition No.1094 of 2025, the petitioner had challenged the condition as being exorbitant, nor the modification therein was prayed. Now, except the application that the earlier surety is unable to fulfill the documentary conditions, there is nothing. The prayer was for death parole, which is treated as emergency parole and its compliance cannot be stretched months together. We are not against the post death rituals or the presence of the petitioner for the said purpose, but whether it can be extended till 40 days because Chalisawa Chelam would fall on 40th day or thereafter after the death. The petitioner if has not taken his

regular parole, may apply for the regular parole or furlough whatever is eligible to meet his family members, but we cannot stretch the duration of emergency parole for such purpose and direct that even after so many days, respondent No.2 should allow the petitioner to comply with the condition.

5. Hence, the writ petition stands rejected.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm