

(2003) 07 BOM CK 0023

In the Bombay High Court

Case No : Criminal Writ Petition No. 194 of 2003

Harikeshao Shriiram Gadhwe

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 14-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Prisons (Bombay Furlough and Parole) Rules, 1959 — Rule 4(10)
Prisons Act, 1894 — Section 59

Citation : (2004) CriLJ 170

Hon'ble Judges : R.S. Mohite, J

Bench : Single Bench

Advocate : S.A. and P.S. Jaiswal, for the Appellant; D.B. Patel, Assistant Public Prosecutor, for the Respondent

Judgement

R.S. Mohite, J.—Heard Shri Jaiswal, learned advocate for the petitioner and Shri Patel, learned APP for the respondents.

2. Rule. By consent of the parties, rule is made returnable forthwith.

3. This is an application made by the petitioner for grant of parole. It appears that the applicant had applied for parole on 1-1-2003. Parole had been sought on the ground of his son's illness. The record indicates that on 20-1-2003, the police report was submitted by the Superintendent of Police. Yavatmal to the Commissioner, Amravati Division, Amravati, confirming that son of the petitioner was not well and further that one Mandabai Gokulrao Lawre was ready to stand his surety. Similar is the report of the District Collector dated 3-3-2003. The medical certificate pertaining to the son of the petitioner is the part of the record available with the learned Additional Public Prosecutor and it indicates that son of the petitioner is suffering from P.V.O. and enteric fever.

4. A perusal of the order dated 24-3-2003, however, indicates that the parole application of the petitioner is rejected completely on different ground that is to say that the petitioner has the habit of surrendering late and that there is a case

which is pending against the present petitioner.

5. Insofar as the case pending against the petitioner is concerned, there is no mention of any pending case in the affidavit in reply. As far as the ground of over standing is concerned, that is a ground which will be applicable for release on furlough under Rule 4(10) of the Prison (Bombay Furlough and Parole) Rules, 1959, if the petitioner was required to be arrested. However, in my view, that cannot be a ground for rejecting the parole which is sought on the ground of illness of the son of the petitioner under Rule 19 of the Rules.

6. In this view of the matter, it is directed that the petitioner be released on parole for a period of 30 days from the date of his release, in accordance with rules. Rule is made absolute accordingly.