
(2016) 04 BOM CK 0132

In the Bombay High Court

Case No : Writ Petition No. 1535 of 2016

Pandit @ Baban Chimaji Bhutekar

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 29-04-2016

Acts Referred:

Prisons (Bombay Furlough and Parole) Rules, 1959 — Rule 18, 28

Citation : (2016) ALLMRCri 5113 : (2016) 3 BomCR(Cri) 127 : (2016) 4 MhLJ 243 : (2016) 3 MhLJCri 491

Hon'ble Judges : SMT. V.K. Tahilramani and Smt. Anuja Prabhudessai, JJ.

Bench : Division Bench

Advocate : Mr. D.G. Khamkar, Advocate, for the Appellant; Mr. H.J. Dedhia, APP, for the Respondent

Final Decision : Dismissed

Judgement

Smt. V.K. Tahilramani, J. (Oral) - Rule. By consent, rule is made returnable forthwith.

2. The petitioner has prayed for parole for a period of 30 days on the ground that the marriage of his daughter is to take place on 29.5.2016. Hence, it is prayed that parole may be granted for a period of 30 days. It is seen that the petitioner has not preferred an application to the concerned authority for parole, but he has directly approached this court with the prayer for parole.

3. Mr. Khamkar, the learned Counsel for the petitioner relied on the decision of full Bench of this Court in the case of S. Sant Singh @ Pilli Singh Ajit Singh Kalyani v. The Secretary, Home Department, Govt. of Maharashtra, Mantralaya, Mumbai & Ors. [2006 ALL MR (Cri) 625. He placed reliance on paragraph 26 and 27 of the said decision to contend that a prisoner can directly approach this court with the prayer for parole leave. We have carefully perused the entire decision, more, particularly paragraph 26 and 27 thereof. We find that this decision does not support the contention of Mr. Khamkar that this court can directly entertain

the application for parole by -passing the procedure laid down in Rule 18 to 28 of the Prisons (Bombay Furlough and Parole) Rules, (1959) (hereinafter referred to as the Rules). In fact, in the case of S. Sant Singh it is clearly stated that it is for the competent authority or the Government to decide as to whether any parole for any particular period is to be granted. The ratio of the decision in Sant Singh is that even if the appeal of the petitioner is pending before any court, parole can be granted. In this decision nowhere it is held that a prisoner can directly approach this court to pray for release on parole. In fact, as stated earlier this decision holds that it is for the competent authority to decide whether parole is to be granted.

4. There is a procedure to be followed for obtaining parole which is set out in Rule 18 to 28 of the Rules. The application for parole is to be made to the Competent Authority. Thereafter the Competent Authority may grant or reject the application for parole. In case the application for parole is rejected, appeal is provided to the State Government. The petitioner has bypassed this entire procedure of preferring an application for parole to the concerned authority and has directly approached this court. This cannot be allowed.

5. In our opinion, such an application should not be entertained and the prisoner/convict has to follow the proper procedure for obtaining parole. He cannot directly approach this court for parole or furlough. In this view of the matter we are not inclined to entertain this petition, hence rule is discharged.

6. However, in case the application for parole is preferred by the petitioner to the concerned authority, the concerned authority shall dispose of the same as expeditiously as possible.