



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 8631 OF 2023 (GM-POLICE)

BETWEEN:

SRI SHIVAPPA BELLAD
S/O SHIVAPPA BELLAD
AGED ABOUT 43 YEARS
R/A BENAKANAVARI VILLAGE
HUNGUND DISTRICT
BAGALKOTE DISTRICT-587118
NOW HOUSED AT OPEN AIR JAIL
DEVANAHALLI
BENGALURU RURAL DISTRICT-562164
(CTP NO.1032)

...PETITIONER

(BY SRI K B MAHESH KUMAR, ADVOCATE FOR
SRI. PRADEEP PATIL.,ADVOCATE)

AND:

1. SUPERINTENDENT OF OPEN AIR PRISON
KGRAMANGALA VILLAGE, DEVANAHALLI TALUQA
BENGALURU RURAL DISTRICT-562110
2. THE DIRECTOR GENERAL OF POLICE
PRISONS AND CORRECTIONAL SERVICES
SESHADRI ROAD, BENGALURU-560 001.
3. ADDL. CHIEF SECRETARY TO GOVERNMENT
HOME DEPARTMENT
2ND FLOOR, VIDHANA SOUDHA
BENGALURU-560001

...RESPONDENTS

(BY SRI. B V KRISHNA., AGA)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT DATED 10.11.2022 VIDE NO.OAJ/J1/589/2022-23 ISSUED BY R1 PRODUCED AS ANNEXRE-C; DIRECT THE RESPONDENTS TO CONSIDER THE REQUISITION OF THE PETITIONER FOR GRANT OF GENERAL PAROLE FOR 30 DAYS (EXTENDABLE) SO AS TO ENABLE HIM TO ATTEND HIS AILING AND TO FURTHER RELEASE THE PETITIONER ON GENERAL PAROLE AS PER RULE 191 OF THE KARNATAKA PRISONS RULES PRODUCED AS ANEXURE-H.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner, who is serving a prison sentence is knocking at the doors of Writ Court seeking *inter alia* the following prayer: "*(b) Issue a Writ Order or direction in the nature of mandamus to the Respondents to consider the requisition of the Petitioner for grant of general parole for 30 days (extendable) so as to enable him to attend his ailing mother...as per Rule 191 of the Karnataka Prison Rules...*"

2. Learned counsel appearing for the Petitioner submits that his client has currently served a prison sentence of 7 years, during which his conduct has remained good. He adds that during the course of his sentence, his mother has suffered certain health problems.



Owing to old age, he adds that his client's application for parole couldn't have been rejected by the Superintendent of Police vide letter no. OAJ/J1/589/2022-2023, without appreciating the however, owing to the declining health condition of petitioners mother. Petitioner adds that he would provide an undertaking given through his counsel that he will not seek extension of parole period. This submission is placed on record.

3. Learned AGA on request having accepted notice for the respondents opposes the petition contending that *parole & furlough* are not a matter of right. On being asked as to the conduct of the petitioner convict serving the sentence all these years, in all fairness, he stated that no adverse entries are reflected in the Jail Conduct Register.

4. Having heard the learned counsel for the parties and having perused the petition papers, this Court, being conscious of the shortness of human life and the irreplaceable position and bond between mother and children, is inclined to grant a restrictive & conditional



indulgence in the matter inasmuch as petitioner's mother Smt. Gangavva, aged about 75 years, an inpatient in General hospital Kushtagi, is stated to be suffering from ailments natural to the old age. *Valmiki in Ramayana* says, "*Janani Janma Bhoomischa Swargaadapi Gariyasi*" meaning "*...mother and motherland are superior even to heaven.*" When a mother is in contemplation of death, as argued at the Bar, it is a legitimate urge for the children to see her and for the mother to see her children. This court sees no reason, why a reasonable opportunity to see the mother, must be denied to the petitioner and thereby to deprive the mother sight of her child.

5. A Co-ordinate Bench of this Court, vide judgment in W.P. No.24274/2022, between SRI. *OMKARMURTHY vs. ASST. SUPERINTENDENT OF POLICE* disposed off on dated 12.12.2022 has sympathetically considered the case of the kind and granted release on parole and therefore, some wisdom can be drawn from the reasoning in the said judgment which favors the case of petitioner. What George A. Ellis in his book '*Inside Folsom Prison*' said about the



nature of convicts very pertinently has been reproduced below:

"Contrary to popular opinion, all convicts are not rock-hard individuals lacking sufficient emotional balance. They are people, with fears and aspirations like everyone else. Generally, they don't want to fight with or kill their neighbor any more than the man on the street. They want to live in peace and return to it their loved ones as soon as possible. They are not a different breed of human being or a distinct type of mentality. They are persons who have made mistakes. This point is made not to solicit pity but to bring attention to the fact that any individual could be caught in a similar web and find himself inside a pit such as Folsom Prison..."

In the above circumstances, this writ petition succeeds in part; the Respondent – Superintendent of Open Air Prison is directed to grant emergency parole of three weeks, i.e., from forenoon of 24.05.2023 till the afternoon of 14.06.2023 to the petitioner, subject to all usual restrictions and conditions in accordance with law.

No costs.

**Sd/-
JUDGE**

bsv/MV