

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 26TH DAY OF OCTOBER, 2021

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO.18978 OF 2021(GM-POLICE)

BETWEEN:

SMT. SUMA,
W/O SHYAM,
AGED ABOUT 49 YEARS,
R/AT NO.GANAGALU VILLAGE,
HOSKOTE TALUK,
BENGALURU RURAL DISTRICT,
HOSKOTE – 560 067.

...PETITIONER

(BY SRI. KEMPARAJU, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BENGALURU – 560 001.
2. CHIEF SUPERINTENDENT,
CENTRAL PRISON,
BELAGAVI – 591 108.
3. DIRECTOR GENERAL OF POLICE AND
INSPECTOR GENERAL OF POLICE,
KARNATAKA PRISON AND
CORRECTIONAL SERVICES,
BENGALURU.

... RESPONDENTS

(BY SRI. VINOD KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT AS PER ANNEXURE-M CONSIDER THE MEMORANDUM DATED 12.10.2021 AND DIRECT THE R2 AND 3 CENTRAL PRISON TO RELEASE THE PETITIONER HUSBAND BY NAME MR. SHYAM ALIAS RAJU REDDY ALIAS PRABHAKAR ALIAS RAJA REDDY S/O MUNIYAPPA, (IN CTP NO.3343) FOR A

PERIOD OF TWO MONTHS GENERAL PAROLE ACCORDANCE WITH LAW.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioner is the wife of the convict who is serving prison sentence for the offence of murders; he has made a representation ('memorandum') dated 12.10.2021 to the respondent nos. 2 & 3 seeking his release on parole for a period of two months, the marriage of daughter having been scheduled to be performed on 7th & 8th of November, 2021; the said representation having not being considered, she is knocking at the doors of writ court for its expeditious disposal.

2. Learned AGA on request having accepted notice for the respondents vehemently opposes the petition contending that *parole & furlough* are not a matter of right; petitioner's husband is convicted for the murder of three persons and therefore whatever arguable right he had for parole, also does not avail to him. So contending, he seeks dismissal of the writ petition.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court

is inclined to grant a restrictive & conditional indulgence in the matter as under and for the following reasons:

a) Petitioner in all fairness has disclosed all the material particulars of the cases in which her husband has been convicted & sentenced; presently he has been serving sentence in the gaol for purging the guilt since last more than two decades ie., since 02.03.1999, of course with some parole/furlough; he had violated some parole condition earlier, may be true; however, one cannot forget that *every saint had a past and every sinner has a future*; the fact that a person is convicted and put behind the bars, does not render him a destitute of all liberty & dignity; in matters like this humanistic approach needs to be adopted qua the convicts; a convict has to keep in contact with the civil society although sporadically, so that his societal roots, do not dry up when he languishes in the jail; otherwise, when he returns from the prison after completing the term of sentence, he may be a total stranger and life may prove hard to him; this is not a happy thing to happen in a Welfare State.

(b) The provisions of parole/furlough are structured on humanistic grounds for the reprieve of those lodged in

goals for long; the main purpose of releasing a serving convict on parole is to afford to him an opportunity to solve his personal & family problems and to enable him to maintain his links with the civil society; there may be cases of health grounds too; the marriage of convict's younger daughter Chi.S.Monish is scheduled to be performed on 7th & 8th day of November, 2021 at Bastipura, Kollegal; petitioner has produced the Marriage Invitation Card at Annexure-L; ordinarily every Hindu Marriage involves certain rituals such as 'Vivaah Homa' & 'Kanyadaan' that are done with the participation of the parents; even otherwise, when a young daughter is getting married, the presence of her father, is desirable, consistent with the humanitarian considerations which inhere in Article 21 of the Constitution of India.

(c) It was **Oscar Wilde** in a stanza of his poem "The Ballard of Reading Gaol" who lamented about the prison life as under:

*" This too I know And wise it were
If each could know the same ...
That every prison that men build
Is built with bricks of shame,
And bound with bars lest Christ should see
How men their brothers maim".*

“Compassion wherever possible and cruelty only where inevitable, is the art of correctional confinement”, said the Apex Court in **CHARLES SOBRAJ VS THE SUPTD., CENTRAL JAIL, TIHAR**, 1978 AIR 1514, after all, the standard of civilization is measured by looking to how the State and Civil Society treat the criminals. The sublime feelings of the spouse & children permeate the prison walls and reach out to the convict, however strong & unkindly they are built; therefore, this court has to facilitate the presence & participation of the petitioner in the ensuing marriage ceremony; an otherwise stand of the court, runs the risk of being branded as ‘inhuman’ by the right thinking sections of the society, to say the least.

(d) The vehement contention of learned State Counsel that the petitioner’s husband has some blameworthy track record and he may flee away from the clutches of law, do not much impress this court; it is not that, the convict is awarded a capital punishment and therefore he may take a chance to run away from the gallows; What **George A. Ellis** in his book “**Inside Folsom Prison**” said about the nature of convicts is quoted by the Apex Court in **MARU RAM vs. UNION OF INDIA**, (1981) 1 SCR 1196 very pertinently:

“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”.

Suitable & stringent conditions can be stipulated by the prison authorities themselves; that would assuage this apprehension.

In the above circumstances, this writ petition succeeds in part; the respondents are directed to consider the subject representation and release the convict on parole/furlough from the forenoon of 01.11.2021 till the afternoon of 15.11.2021; the respondents shall stipulate strict conditions as are usually stipulated to ensure the return of convict to the gaol and that he shall not commit any other offence.

Costs made easy.

**Sd/-
JUDGE**

Snb/bsv