

Afiya Mulla vs State of Karnataka

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Court : Karnataka Dharwad

Decided On : Feb-19-2025

Judge : M.Nagaprasanna

Appeal No. : WP/100608/2025

Appellant : Afiya Mulla

Respondent : State of Karnataka

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 19TH DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR. JUSTICE M.NAGAPRASANNA WRIT PETITION NO.100608 OF 2025 (GM-POLICE) BETWEEN: AFIYA MULLA D/O. BASHIR AHMED MULLA, WIFE OF MANJUR ALI CTP - 4129, AGED ABOUT 39 YEARS, R/O: 323-ANAND GALLI, LONDA, SUB DIST: HUKKERI, DISTRICT: BELAGAVI, KARNATAKA - 591 301. PETITIONER (BY SRI SIRAJUDDIN AHMED, ADVOCATE) AND:

1. STATE OF KARNATAKA, HOME DEPARTMENT, THROUGH PRINCIPAL SECRETARY, VIDHANA SOUDHA, BENGALURU - 560 001. Digitally signed by VISHAL NINGAPPA PATTIHAL Location: High

2. CHIEF SUPERINTENDENT, Court of Karnataka, CENTRAL PRISON, BELAGAVI - 591 108. Dharwad Bench, Dharwad RESPONDENTS (BY SRI SHARAD V. MAGADUM, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO WHEREFORE IT IS MOST RESPECTFULLY PRAYED THAT THIS HON BLE COURT MAY GRACIOUSLY BE PLEASED TO ISSUE WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT(S), ORDER(S) OR DIRECTION(S) AND THEREBY. DIRECT THE RESPONDENT NO.2 TO RELEASE THE PETITIONERS HUSBAND MANJUR ALI CTP-4129 ON GENERAL PAROLE FOR A PERIOD OF 90 DAYS CITING THAT ILLNESS OF CONVICT WHICH IS EVIDENT FROM THE MEDICAL CERTIFICATE TO PROVIDE HIM MEDICAL CARE FOR EFFECTIVE TREATMENT AND RECOVERY THE INTEREST OF JUSTICE AND EQUITY AND ETC., -2-

THIS WRIT PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

1. The petitioner's husband viz: Manjurali (CTP

No.4129) is convicted for the offence punishable under Section 320 of the Indian Penal Code, 1860 and sentenced to undergo life imprisonment. The petitioner asserts that her husband is in judicial custody since eight years.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the State.

3. The petitioner has filed this petition seeking for a

direction to release her husband on parole stating that his sister is suffering from terminal disease, and her husband's support is required to provide further treatment to his ailing sister.

4. Given these circumstances, the reasons assigned

seeking parole satisfies the grounds enumerated in Section 643 of Prison Act which deals with eligibility of emergency -3- parole. Therefore, the petitioner has established a prima facie case for release of her husband on parole. Accordingly, I pass the following:

ORDER

(1) The petition is allowed in part.

(2) Mandamus issues to the respondents to consider

the case of the petitioner and release the detainee / Manjurali (CTP No.4129) on general parole for 45 days commencing from 21.02.2025, which becomes operational from the forenoon of 21.02.2025 subject to the following conditions:

(i) The convict (CTP No.4129) shall mark his

attendance in the jurisdictional Police station, weekly once throughout the period of his parole and it would be the responsibility of the jurisdictional Police to take him to gaol, in the event, the convict (CTP No.4129) would evade going back to the gaol, after the expiry of the period of general parole.

(ii) Respondent No.2 shall stipulate strict conditions as are usually stipulated, to -4- ensure return of the detainee to the gaol and that he shall not commit any other offence during the period of parole.

(3) The petitioner is at liberty to seek extension of parole, which shall be considered looking at the conduct of the husband of the petitioner - convict while he is out on parole.

(4) The registry is directed to communicate the

order to the prison authority for its execution.

SD/- (M.NAGAPRASANNA) JUDGE VNP/CT-ASC List No.: 1 Sl No.: 53

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