

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 26<sup>TH</sup> 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 a convict for the offence of murders has been undergoing prison sentence; 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 his daughter scheduled to be performed on 7<sup>th</sup> & 8<sup>th</sup> of November, 2021; the said representation having not being considered, he 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 is convicted for the murder of three persons and therefore whatever arguable right he has, 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 he 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; one cannot forget that *every saint had a past and every sinner has a future*; a person is convicted and put behind the bars, does not render him a destitute of all liberty & dignity; humanistic approach needs to be adopted qua the convicts; a convict has to keep in contact with the civil society although not very regularly, so that his roots there, do not dry up when he languishes here; otherwise when he returns from the prison after completing the term, he will be a total stranger and life would prove hard to him.

(b) The provisions of parole/furlough are structured on humanistic grounds for the reprieve of those lodged in gaols 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 petitioner's younger daughter Chi.S.Monish is scheduled to be performed on 7<sup>th</sup> & 8<sup>th</sup> 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' with the participation of the parents; even otherwise when a young daughter is getting married, the presence of her father, mother having died recently, is desirable;

(c) It was **Oscar Wilde** in a stanza of his poem "The Ballad of Reading Gaol" laments 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 the Society treat the criminals. The sublime feelings of the spouse & children permeate the prison walls and reach 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 section of the society, to say the least.

(d) The vehement contention of learned State Counsel that the petitioner 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, petitioner 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; that 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 petitioner's representation and release him on parole 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 petitioner to the gaol and that he shall not commit any other offence.

Costs made easy.

**Sd/-  
JUDGE**

Bsv/Snb