

Shaik Noor Ahmed Vs State Of Karnataka & Ors

Court: Karnataka High Court, Dharwad Bench

Date of Decision: Jan. 30, 2025

Acts Referred: Indian Penal Code, 1860 " Section 302

Hon'ble Judges: M. Nagaprasanna, J

Bench: Single Bench

Advocate: Umme Salma, Sharad V. Magadum

Final Decision: Partly Allowed

Judgement

M. Nagaprasanna, J

1. The petitioner is the brother of the convict, who is convicted for the offence punishable under Section 302 of IPC, inter alia it is the case of the

petitioner that, the brother has been in prison from 15 years and 28 days and been released on parole once and there is no adverse report against him.

2. The matter is moved today on the score of engagement. The sister of the convict had approached this Court seeking release on grant of parole. The

petition is preferred before the Principal Bench. This Court observing that the sister's marriage was ensuing had granted parole by the following order:

"Heard learned counsel for the petitioner and learned AGA for the respondents.

2. The petitioner's brother, Shaik Riyaz Ahmed (CTP No.4328), has been convicted for offences punishable under Sections 302, 326,

353, 506(2), 120(b) r/w 34 of the IPC and sentenced to life imprisonment.

3. The petitioner seeks a directive for the release of his brother on parole, citing that her marriage is scheduled to be solemnized on

05.12.2024, at Mysore, and the convict's presence is required to make arrangements and to be present during the solemnization of the

marriage.

4. The petitioner's brother has served more than fifteen years of sentence as of today, and he has not previously been released on

parole. A criminal case is pending trial against the convict, which was registered when the convict was in judicial custody. The convict's

presence is required for the solemnization of his sister's marriage. Therefore, the petitioner has established a prima facie case for the

release of his brother on parole. Accordingly, I pass the following:

ORDER

I) Writ petition is allowed.

II) The 2nd respondent is hereby directed to release the petitioner's brother, viz., Shaik Riyaz Ahmed, CTP No.4328 on parole for a period

of 60 days from the date of his release subject to convict undertaking not to involve in unlawful activities.

III) The respondents shall impose strict conditions as are usually stipulated to ensure the return of the detenue to the jail and the convict

shall not commit any other offence during the period of parole.

IV) Violation of any of the parole conditions would result in cancellation of parole.

V) The convict to mark his attendance before the Jurisdictional Police every ten days.

VI) The Registry is directed to communicate this order to the jail authority, by way of electronic mail.

3. The present petition is preferred on the score that the convict's engagement itself is fixed and has produced the invitation to that effect.

4. In that light, I deem it appropriate to grant / continue the parole from 1st of February 2025 till 28th of February 2025. Further, I deem it appropriate

to observe that, applications are not preferred by the relatives of the convict before the Authorities, it is the advocate who is now communicating all

these applications by way of mails. This practice needs to be deprecated as if the applicants file the application the Jail Authorities would be in a

position to consider the same and draw up a report and place it before the Court. Therefore, henceforth if there is no application filed before the

concerned Authorities by the relatives of the convict, parole applications would not merit consideration.

5. Subject to the aforesaid, the following:

ORDER

(1) The Writ Petition is allowed in part.

(2) Mandamus issues to respondent No.2 to consider the representation of the petitioner and release the detenue / Shaik Riyaz Ahmed, (CTP

No.4328) on general parole from the forenoon of 1st of February 2025, till the evening of 28th of February 2025 subject to the following conditions:

(i) The convict (CTP No.4328) 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.4328) would evade going back to the gaol,

after the expiry of the period of general parole.

(ii) Respondent No.1 shall stipulate strict conditions as are usually stipulated, to ensure return of the detenue to the goal 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 brother of the petitioner "convict

while he is out on parole.

The registry is directed to communicate the order to the prison authority for its execution.