



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2023

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BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 18712 OF 2023 (GM-POLICE)

BETWEEN:

ABDUL REHMAN
S/O AMZAD PASHA
AGED ABOUT 23 YEARS,
KURIPALYA A K COLONY,
TUMKUR, KARNATAKA-577 102.

...PETITIONER

(BY SRI. SIRAJUDDIN AHMED.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
HOME DEPARTMENT,
THROUGH PRINCIPAL SECRETARY,
VIDHANA SOUDHA, BENGALURU-560 001.

2. CHIEF SUPERINTENDENT OF CENTRAL PRISON
PARAPPANA AGRAHARA,
ELECTRONIC CITY POST,
BENGALURU-560 100.

...RESPONDENTS

(BY SMT. NAVYASHEKHAR., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE R2 TO RELEASE THE PETITIONERS FATHER AMZAD PASHA ON PAROLE IN ACCORDANCE WITH LAW FOR A PERIOD OF 30 DAYS TO ATTEND THE MARRIAGE OF PETITIONER.





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

ORDER

This petition seeks parole of the petitioner a Muslim on the ground that his daughter's nikah is scheduled on 3.9.2023. Fyzee on 'Outlines of Muhammadan Law', Fourth Edition at page 93 suggests that the presence of father in the performance of nikah of his daughter is desirable.

2. Almost a similar view is taken by this court in *SUMA vs. STATE OF KARNATAKA*, (2022) 1 KLJ 265, where in paragraph 3(c) is reproduced as under:

"(c) It was **Oscar Wilde** in a stanza of his poem "The Ballard 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..”

3. 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. 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 convict's daughter is scheduled to be performed on 03.09.2023; petitioner has produced the Marriage Invitation Card; ordinarily every Muslim Marriage involves certain rituals 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.

In view of the above, the authorities are directed to release the petitioner on furlough, subject to usual precautions, for a period of seven days commencing from tomorrow i.e., 2.9.2023.

Writ Petition is disposed off.

Sd/-
JUDGE