

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1046 OF 2025

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Raju @ Rajiv Basavraj Gurav

... Petitioner

Versus

The State of Maharashtra

... Respondent

.....
Mr. Meghdeep Oak for the Petitioner.
Mr. Pankaj Deokar, APP for the Respondent - State.
.....

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : November 25, 2025.

ORAL JUDGMENT :- (Per M.S. Karnik, J.)

1. Heard learned counsel for the petitioner, who has been appointed as legal aid counsel to represent the petitioner and the learned APP.

2. The petitioner is confined at Nashik Road Central Prison as Prisoner No.C/7686 since 30th April 2009 being convicted in Sessions Case No. 01 of 2008 registered with Ratnagiri City Police Station under Sections 302, 394, 201 read with Section 34 of Indian Penal Code (for short 'IPC').

3. The petitioner was arrested on 6th June 2007.

4. According to the learned counsel, as of date the petitioner has undergone imprisonment for a period of 18 years and 3 months approximately. In any case, the petitioner has undergone actual imprisonment for more than 14 years. The petitioner by this petition seeks the benefit of eligibility for furlough.

5. In view of the Government Resolution dated 13th March 2024, the respondents have held the petitioner ineligible for furlough leave for the following reasons as stated in paragraph Nos. 5 to 10 in affidavit-in-reply, which read thus :-

"5. It is further stated that, on Page No.2, Paragraph No.2 of the aforesaid Government Resolution, certain category of prisoners are excluded from the said remission. The relevant paragraph of the said G.R. is reproduced verbatim as under :-

२. परंतु खालील प्रवर्गात मोडणाऱ्या शिक्षा बंधांना उक्त परि. क्र. १ येथे नमूद रज्ज्माफी देण्यात येऊ नये.

- i. फौजदारी प्रक्रिया संहितेमधील कलम १०६ ते ११० अंतर्गत कारागृहात असलेले बंदी (चॅप्टर केसेस)
- ii. भारतीय दंड संहितेमधील कलम १२१ ते १३० अंतर्गत शिक्षा झालेले बंदी (राज्य विरोधी कारवाईचे गुन्हे)
- iii. केंद्रीय अधिनियमान्वये शिक्षा झालेले बंदी
- iv. मोक्का कायदा, पोक्सो कायदा अंतर्गत शिक्षा झालेले बंदी
- v. दहशतवादी कारवायांमध्ये समाविष्ट बंदी
- vi. संचित रखेल्लीता उपात्र ठरणारे बंदी
- vii. दिवानो बंदी
- viii. किशोर सुधारालयातील गुले
- x. कारागृहातील वर्तन बंदिस्तीचे किंवा असमाधानकारक असलेले बंदी

6. *The present Petitioner being a convict prisoner under section 394 of the Indian Penal Code is not eligible for Furlough Leave and can only avail Regular Parole leave and Emergency Parole leaves, as per the Government Notification No. JLM-0824 / C.R. 132 / Prison 2, dated 02.12.2024; which governs the Parole and Furlough Rules, 2024. Herein annexed and marked as Exhibit 'B' is the copy of the said Parole and Furlough Rules, 2024. Also, the relevant paragraph of the said Government Notification dated 02.12.2024 is reproduced verbatim as under:-*

*4. Categories of eligibility of prisoners for furlough.
(1) All Indian prisoners, except those specified in sub-rule (2), whose conduct reports are good are eligible for furlough as per the provisions of these rules.*

(2) The following prisoners shall not be eligible for furlough, namely:-

- (a) foreign prisoners;*
- (b) prisoners with multiple criminal cases against them, whose bail is rejected in any one of these cases;*
- (c) prisoners transferred to the Ratnagiri Special Prison on disciplinary grounds;*
- (d) prisoners convicted for offences under sections,-*
 - (i) 392 to 402 (both inclusive) of the Indian Penal Code;*
 - (ii) 309(4), 309(5), 309(6), 310(1), 310(2), 310(3), 310(4), 310(6), 311, 312, and 313 of the Bhartiya Nyaya Sanhita, 2023 (45 of 2023).*

7. *It is further stated that, even if the Rule governing the Parole and Furlough leaves, of the year 2018 are considered for the present Petitioner, still he cannot be included in the present*

remission list, since even then the prisoner convicted under section 392 to 402 of the Indian Penal Code were not eligible for Furlough leave, which is similar to the Parole & Furlough Rules, as recently articulated in the year 2024.

8. It is stated that, in view of the fact that the present Petitioner is ineligible for Furlough leave and in further view of the fact that the Amrut Mahotsav Remission is not to be given to prisoners who are ineligible for Furlough Leave, hence the present Petitioner is ineligible for the said Special Remission on account of Amrut Mahotsav.

9. I further state that the Petitioner has preferred the present Petition with prayer to grant him the said Special Remission on account of Amrut Mahotsav, which is not only beyond the Rules governing the said resolution, but shall also be in violation of the same.

10. The present Petitioner has annexed certain remission notification which is of the year 1997 and neither has any relevance to the Amrut Mahotsav Remission nor the same is of any significance to the present Petitioner. Also, the present Petitioner has annexed a letter issued by the Ld. District Judge-1 and Additional Sessions Judge, Ratnagiri which is in view of another Resolution dated 03.06.2017 issued by the State Government on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar and again has no relevance to the Amrut Mahotsav Remission, as prayed for by the Petitioner in the present Petition."

6. learned counsel submits that the petitioner has been held ineligible to the benefit of remission on account of the fact that the prisoner is ineligible for furlough in view of the G.R. dated 13th March 2024.

7. We find that by Notification dated 16th April 2018, the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 amended the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959. For Rule 4 of the Principal Rule, following Rule was substituted, namely :-

“4. Eligibility for furlough :- All Indian prisoners except from following categories whose annual conduct reports are good shall be eligible for furlough:-

(1) Habitual prisoners;

(2) Prisoners convicted of offences under sections 392 to 402 (both inclusive) of the Indian Penal Code (Prisoners may be eligible for furlough after completion of stipulated sentence in the respective Section);

(3) ”

8. We find that the impugned Rules of 2018 clearly stipulate the prisoners may be eligible for furlough after completion of the stipulated sentence under the respective section. The Government Resolution dated 13th March 2024 stipulates that those prisoners who are not eligible for furlough are not to be given the benefit of the G.R. dated 13th March 2024 for the purpose of remission. Further, by virtue of Rule 4 of the Maharashtra Prisons (Furlough and Parole) Rules 2024, the prisoners who are convicted for the offences under Section 392 to 402 (inclusive) of the IPC shall not be eligible for furlough. The

respondent – State has denied the benefit of remission of 15 months as provided by the G.R. dated 13th March 2024.

9. According to us, the approach of the respondents in denying the benefit of the G.R. dated 13th March 2024 is erroneous. The respondents are not justified in denying the benefit to the petitioner on the strength of the Maharashtra Prisons (Furlough and Parole) Rules 2024. The petitioner's case should have been considered on the strength of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 [Rules of 2018] which are more beneficial to him. As on the date of the issuance of the G.R. dated 13th March 2024, the petitioner's case was governed by the Rules of 2018.

10. The petitioner having undergone the substantive sentence of over 14 years, was eligible for the furlough in terms of Rule 4(2) of the Rules of 2018. Learned counsel for the petitioner is justified in placing reliance on the decision of this Court in *Sahebrao Kaluram Bhintade Vs State of Maharashtra & Anr.* in Writ Petition No. 1040 of 2022 decided on 21st March 2023. In paragraph 7 of the said decision, it is observed as under :-

"7. It is thus clear that as a general principle, the policy which is applicable to a convict is the one which is prevailing on the date of his conviction and that would govern the

consideration of his case for premature release, but in case a more liberalized policy is brought into force, subsequently the case must be considered on the basis of more liberalized policy. In other words, it is the policy which is more liberal and more beneficial to a convict which has to be applied while considering his case for premature release by granting remission in sentence."

11. Thus, the policy governing the petitioner for the benefit of furlough is the Maharashtra Prisons (Mumbai Furlough and Parole) Rules 2018. The respondents, therefore, are not justified in denying the petitioner the benefit of the Rules of 2018. The 2024 Rules will not apply for considering the petitioner's case for grant of the benefit of remission in terms of G.R. dated 13th March 2024.

12. The petition is, therefore, allowed. We hereby hold that the petitioner is entitled to the benefit of remission in terms of the G.R. dated 13th March 2024, which is at page No. 33 of the petition. The aforesaid aspect shall be taken into consideration when the petitioner's case is taken up for review after completion of 26 years imprisonment, including remission.

13. The petition is disposed of.

14. We appreciate the studious and sincere attempt made by Mr. Meghdeep Oak, who is appointed by the legal aid committee to represent the cause of the petitioner.

[Ajit B. Kadethankar, J.]

[M. S. Karnik]