

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL WRIT PETITION NO. 156 OF 2015

DATTA MURLI PAWAR [CONVICT NO. 4064]
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Shembole G.S. (appointed)
APP for Respondents/ State : Mr.K.S.Patil.

...

CORAM : **T. V. NALAWADE &
SMT. I. K. JAIN, JJ.**

DATE : 23rd April, 2015.

ORDER:

1 Heard both the sides.

2 The furlough leave application of the Petitioner is rejected by the Authority on the ground that one crime at Crime.79 of 2013, is registered for the offences punishable under Sections 323, 504 of the Indian Penal Code against him at Narsi Police Station, District Hingoli and one chapter case No.110 of 2013 under Section 107 of the Code of Criminal Procedure is filed against him on the basis of report given by the same Police Station. The application is rejected by referring Prisons Rules, 1959, Sub-Rule 4(4) and 4(11). Copies of the FIR and the Chapter case proceedings are produced and they show that on the basis of complaint given by one Subhash Ratan

Pawar, the N.C. was registered and in respect of the same incident, report was given to start chapter proceedings.

3 This Court has carefully gone through the relevant Rules. Rule 4(4) and 4(11) read thus:

“4. The following categories of prisoners shall not be considered for release on furlough “–

(4) Prisoners whose release is not recommended in Greater Bombay by the Commissioner of Police and elsewhere, by the District Magistrate on the ground of public peace and tranquility.

....

(11) Prisoners whose presence is considered dangerous or otherwise prejudicial to public peace and order by the District Magistrate and Superintendent of Police.”

4 The nature of dispute mentioned in the aforesaid report given by one person shows that it is a private dispute between the Petitioner and the said person. The learned counsel for the Petitioner place reliance on some reported cases like the judgment of the Bombay High Court in the case of **Sandeep Shivaji Mhatre Vs. State of Maharashtra and another**, reported in, **2014 ALL MR (Cri) 3913** and the judgment of the Honourable Apex Court in the

case of **the Superintendent, Central Prison, Fatehgarh and another Vs. Dr. Ram Manohar Lohia**, reported in, **1960 Cri. L. J. 1002**. In this case, the Apex Court has discussed the difference between two terms like “public peace and tranquility” and “public order”. The dispute which is mentioned cannot fall under the category which is mentioned in 4(4) of the Rules. Similarly, the case apparently does not fall in Rule 4(11).

5 In view of these circumstances and in view of the reasons given for rejection of the furlough leave application, the petition is allowed. The order is set aside. The matter is remanded back with the Deputy Inspector General of Prisons, Central Region, Aurangabad. The Authorities to decide the furlough leave application within a period of fifteen days from the date of this order.

6 The fees of the appointed counsel is quantified at Rs.2,000/-.

7 Criminal Writ Petition stands disposed of.

[SMT. I. K. JAIN, J.]

[T. V. NALAWADE, J.]