

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 567 OF 2015

MEGHSHAM GANPAT SONTAKKE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for petitioner : Through Jail Smt. S.S. Kulte
(appointed) (**absent**)

APP for Respondent : Mr. M.M. Nerlikar

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CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.

Dated: June 17, 2015

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PER COURT :-

1. Heard the learned Additional Public Prosecutor for the State.

2. It appears that, the petitioner-convict is undergoing sentence in Open Prison. According to the contents of the application forwarded by the petitioner, he was earlier released three times and he surrendered back in prison within time in all three occasions.

3. The petitioner by way of filing this Petition prays that, he be released on furlough leave on furnishing personal bond/cash security of the reasonable amount.

4. Since the petitioner is undergoing imprisonment in Open Prison, in view of the judgment of Full Bench of

Gujarat High Court in the case of **Natia Jiria Vs State of Gujarat aand others**¹ and the Division Bench of this Court in case of **Dipak Sakharam Wakalekar Vs State of Maharashtra & ors**², the petitioner's prayer deserves consideration, in as much as, in case the Respondent Authority considers the prayer of the petitioner to release him on furlough leave, in that case, without insisting surety, the petitioner be released on furnishing personal bond/cash security, keeping in view the fact that, the petitioner is undergoing imprisonment in open prison.

5. It would be apt to reproduce the paragraph 23 from the judgment in case of **Dipak Sakharam Wakalekar** (supra) which reads thus :

“23. In the light of the discussion made above, we hold that as per the proviso to Rule 6 of the Rules 1959 a convict confined in open prison can be released on furlough by the Sanctioning Authority by dispensing with the requirement of execution of bond by the relatives.

We hold that a convict confined in open prison can be released on parole by the authorities by dispensing with requirement of execution of bond by the relatives.”

6. Upon reading para 23 of the said judgment, it is

1 1984 Cri.L.J. 936

2 [2011(2)Bom.C.R.(Cri) 586]

clear that, it is not necessary for the prisoner-convict confined in Open Prison to furnish surety and the authority by dispensing with the requirement of execution of bond by the relatives, can release the prisoner on furlough. It is also undisputed position that the petitioner was released on three occasions on furlough and he has reported on due dates.

7. However, we make it clear that, we have considered the prayer of the petitioner to the extent of releasing him on personal bond/cash security and we have not exempted him from fulfilling other conditions, if any, as per the relevant Rules.

8. The petitioner to file the application within two weeks from today. From the date of receiving such application, the Respondent Authority to decide the said application and take final decision within 10 days subject to fulfilling other conditions except surety. In case, the Authority comes to the conclusion that, the petitioner is entitled to be released on furlough leave, he be released on personal bond/cash surety.

9. The Petition is disposed of in the above terms.

(**A. I. S. CHEEMA, J.)**

(**S.S. SHINDE, J.)**

sga/-

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