

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

CRIMINAL WRIT PETITION NO. 816 OF 2015

SHERSINGH NANAKSINGH GILL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioner : Smt. Vidya S. Narale [Appointed]
APP for Respondent – State : Mr. V.D.Godbharale
...

CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.
Dated: July 28, 2015
...

PER COURT :-

1] Heard the learned counsel appearing for the Petitioner, and the learned APP appearing for the Respondent – State. Perused the grounds taken in the Petition, and the affidavit filed by Mr. Jayant Segar Naik, who is working as Superintendent of Nashik Road Central Prison, Nashik.

2] Para 4 and 5 of the said affidavit read thus:

4. I say that, the Superintendent of Police, Nanded, has sent adverse police report to the office of the Deputy Inspector General (Prisons), Central Region, Aurangabad vide letter O.W No. 6617 dated 16/11/2014 regarding the grant of Furlough leave of the Petitioner. The Superintendent of Police, Nanded, has informed that the guarantor who is the mother of the

Petitioner has given statement that earlier the Petitioner was released on Furlough leave in the Year 2011 and at that time the Petitioner did not surrendered himself for two years. It was his son who ensured and compelled his father to surrender back to the prison. She has further stated that the Petitioner has developed unsound mind condition and therefore if released then further then he may not surrender back to the prison hence she has refused to become Guarantor and take responsibility of the Petitioner.

5. *I say that, the Deputy Inspector General of Prisons, Central Region, Aurangabad by order No. 6958 dated 01/12/2014 had rejected the Furlough leave application of the petitioner for the breach of conditions of furlough leave under the Prisons [Mumbai Furlough and Parole] Rule 1959, Sub Rule 4(4), 4(6), 4(10) of Rule 4 and under Rule 6 on the ground that earlier when the petitioner was released on Furlough leave on 19/11/2010 he remained absconded for 855 days. He surrendered back to the prison on 21/04/2013.*

3] It is true that, the mother of the petitioner by way of filing an affidavit on 10th January, 2014 showed willingness to stand as surety. However, during inquiry by the concerned Police Officer, she refused to stand as surety.

4] In the light of averments in para 4 and 5 of the affidavit filed by the respondents, it is not desirable to release the petitioner on Furlough leave. Hence, this Criminal Writ Petition stands rejected. However, in view of Rule 9 of the Prisons [Bombay Furlough and Parole] Rules, 1959, the prisoner can file an application afresh for furlough within 6 months after rejection of his previous Application, if so desired. In view of said Rule, petitioner would be entitled to apply afresh for Furlough leave. In case such application is filed, the respondents authorities to decide the same, in accordance with the relevant Rules and after calling police report.

Sd/-
[A. I. S. CHEEMA, J.]

Sd/-
[S.S. SHINDE, J.]