

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

Criminal Writ Petition No. 977 of 2015

Shaikh Rajjak s/o. Shaikh Salim,
Convict No. C-6173,
Nashik Road, Central Prison.

.. Petitioner.

versus

1. The State of Maharashtra.
2. The D. I. G. (Prisons),
Central Jail, Harsool,
Aurangabad.
3. The Divisional Commissioner,
Aurangabad,
Taluka & District : Aurangabad.
4. The Superintendent,
Aurangabad Central Jail,
Aurangabad.

.. Respondents.

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Mr. Pramod P. Dhorde Patil, Advocate, for the petitioner.

*Mr. K.S. Patil, Additional Public Prosecutor, for
respondent nos.1 to 4.*

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

DATE : 25TH AUGUST 2015

COURT'S ORDER *(Per S.S. Shinde, J.)* :

1. Heard Adv. Mr. P.P. Dhorde Patil (Appointed) for the petitioner, and learned APP Mr. K.S. Patil for the respondents.
2. This petition takes exception to the order dated 20th March 2015, passed by the Deputy Inspector General of Prisons, Aurangabad, thereby rejecting prayer of the petitioner for grant of furlough leave.
3. The learned Counsel appearing for the petitioner submits that the prayer of the petitioner, to release him on furlough leave, is rejected on the ground that when the petitioner was released earlier on furlough leave, he overstayed for 315 days and also on the ground of adverse report from the Police. It is submitted that already remissions are deducted for overstay of the petitioner for 315 days when he was earlier released on furlough leave. It is the submission of the learned Counsel for the petitioner, that once the petitioner is punished, inasmuch as, his remissions are deducted for overstay of 315 days, on that ground, his application for furlough leave could not have been rejected by the authority. He has, therefore, urged that the petition be allowed and the respondents be directed to re-consider application of the petitioner for grant of furlough leave.
4. On the contrary, learned Additional Public Prosecutor, relying on the averments made in the reply affidavit filed by Mr. Jayant Sega Naik, working as Superintendent of Nashik Road Central Prison, Nashik, submits that when the petitioner was released on furlough leave on 7th May 2003 and 18th March 2009, he did not surrender on the scheduled

date of reporting and remained absconded for 315 days and 1335 days, respectively. Therefore, he submits that the petition be rejected.

5. We have carefully given consideration to the submissions advanced by the learned Counsel for the petitioner and the learned Additional Public Prosecutor. We have also perused pleadings in the petition, annexures thereto and the averments made in the affidavit in reply filed by the respondent - State. Upon perusal of para 5 of the affidavit in reply, it is abundantly clear that not only on one occasion, the petitioner overstayed for 315 days, but even on second occasion, he overstayed for 1335 days and on both occasions he was brought to jail by Police by arresting him. Respondent no.2 has rightly rejected the application of the petitioner in view of the relevant Rules. Therefore, we are not inclined to exercise our writ jurisdiction and entertain the petition.

6. Hence, the petition is rejected.

However, Rule 9 of the Prisons (Bombay Furlough & Parole) Rules, 1959, enables the convict to file fresh application for furlough leave, after six months from rejection of earlier application. In that view of the matter, the petitioner, if advised, can apply afresh for furlough leave.

(A.M. BADAR)
JUDGE

(S.S. SHINDE)
JUDGE

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