

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.610 OF 2015**

Datta Sidram Kamble	.. Petitioner
v/s.	
The State of Maharashtra & Ors.	..Respondents

Mrs. Harjeet Kaur for the petitioner
Mrs. P.H. Kantharia, APP for respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 30th JUNE, 2015.**

P.C.

1. Heard.

2. By this petition, the petitioner is challenging the order dated 30.06.2014 passed by the competent Authority as well as order dated 30.10.2014 passed by the Appellate Authority, rejecting his application for furlough leave. The order of the competent authority is not annexed to the petition. However, learned APP placed the same on record. Perusal of these orders reveals that the petitioner's application is rejected on the ground of adverse police report.

3. Learned APP has also placed on record copy of the police report dated 29.05.2014, which shows that four crimes, namely C.R. No.13/2004, 78/2004, 347/2007 and 224/2009 were registered at Sahakar Nagar Police Station against the petitioner. That apart, petitioner is convicted in CR No.188 of 2010, in addition to the Chapter Case No.28 of 2004 and the proposal of externment being Externment Proposal No.4 of 2008, under Section 56(b) of the Bombay Police Act.

4. Learned Counsel for the petitioner pointed out that the petitioner has already acquitted in C.R. No.347 of 2007. She has also placed on record the information obtained under the Right to Information Act that the petitioner has released on bail in respect of the C.R. Nos.13 of 2004 and 224 of 2009. The petitioner has also produced letter written by the District Judge-7 & Additional & Sessions Judge, Pune, copy of which is annexed at Exh.F, which shows that he is on bail in C.R. No.224 of 2009. Thus, out of 4 cases on the basis of which the petitioner's application for furlough

leave was rejected, the petitioner is acquitted in one case and he has been granted bail in two cases. The Authority has not considered this aspect while deciding the petitioner's application for furlough leave. Order shows non-application of mind and the same is vitiated.

5. We, therefore, quash and set aside the order dated 30.06.2014 passed by the competent Authority as well as order dated 30.10.2014 passed by the Appellate Authority and remand the matter back to the Deputy Inspector General of Prison, Pune. The Competent Authority to decide the petitioner's application afresh as expeditiously as possible and preferably within a period of 4 weeks from the date of receipt of a copy of this order.

6. The Writ Petition is allowed in the above terms.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)