

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1908 OF 2015**

Rahemat Ali Mohd. Umar Shaikh .. Petitioner

Vs.

The State of Maharashtra .. Respondent

....

Ms. Rohini Dandekar advocate appointed for the Petitioner
Mr. A.S. Shitole A.P.P. for State

....

**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J. &
DR.SHALINI PHANSALKAR-JOSHI, J.**

DATED : NOVEMBER 16, 2015

P.C.:

1 The petitioner has preferred this petition through jail, hence, we appoint Advocate Ms. Rohini Dandekar who is on the panel of Advocates of the High Court Legal Services Committee, to represent the petitioner in this petition.

2 Rule. By consent, Rule made returnable forthwith.

3 The petitioner has preferred application for furlough which came to be rejected by order dated 21.2.2015. The said application came to be rejected as on two earlier occasions the applicant / petitioner had overstayed the furlough leave granted to him.

4 It is seen that the petitioner was released on 11.4.2011, however, instead of reporting back in time, he was late by one day in surrendering back to the prison. However, he himself reported back to the prison. As far as overstay of furlough in the year 2014 is concerned, he was released on furlough on 7.2.2014, however, according to the petitioner, as he fell sick, he was late by 29 days in surrendering back to the prison. It is noticed that on both the occasions, the petitioner has himself surrendered back to the prison. On the first occasion, he was just one day late and on the second occasion, though he was late by 29 days, but he has himself surrendered to the prison and it is not the case that he had to be arrested and brought back to the prison. It is further seen that on two other occasions, the petitioner was released on furlough i.e. on 9.9.2009 and 16.2.2013 and on both these occasions, the petitioner reported back to the prison in time. The report from the jail also shows that the conduct of the petitioner in prison, is satisfactory. In this view of the matter, we are inclined to grant the prayer of the petitioner.

5 In view of the above, the petitioner be released on furlough for a period of 14 days (fourteen days) on furnishing surety to the satisfaction of the concerned authority and subject to the condition that the petitioner shall report to the concerned police station on every alternate day during the period that he is on furlough.

6 On completion of 14 days furlough, the petitioner shall surrender back to the concerned jail.

7 Legal fees to be paid to the appointed advocate as per the Rules.

8 Office to expeditiously communicate this order to the petitioner who is in Nashik Road Central Prison.

9 Rule is made absolute in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]