

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION No. 13 of 2015

Manohar Varluji Zade,
 Convict No. C-6774,
 Presently at Central Prison, Nagpur,
 District Nagpur.

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Petitioner.

-Versus -

1. The Deputy Inspector General (Prison) (East)
 Nagpur.

2. The Superintendent,
 Central Prison, Nagpur,

...

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Respondents.

 Mr. Mir Nagman Ali, Advocate for petitioner.

Ms. N.R. Tripathi, APP for respondents.

**CORAM : A.B.CHAUDHARI AND
 P.N. DESHMUKH, JJ.**

DATED : 16th March, 2015.

ORAL JUDGMENT (Per P.N. Deshmukh, J.)

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the rival parties.

2. The petitioner has approached this court being aggrieved by the rejection of his application for grant of furlough leave sought on the ground to visit his family.

3. Heard learned counsel for both the sides. Perused the affidavit-in-reply. We have noted that the petitioner is undergoing sentence for life imprisonment for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code vide judgment dated 9.2.2010. The leave application as

aforesaid came to be rejected considering adverse police report and previous record of the petitioner since he is found habitual in surrendering late and accordingly impugned order dated 22.12.2014 came to be passed.

4. According to the affidavit-in-reply, it is noted that on nine occasions earlier when petitioner was on furlough/parole leave, he had surrendered late by 2 days, 2 days, 9 days, 47 days, 53 days, 84 days, 59 days, 65 days and 81 days respectively. However, we find that on neither of these occasions petitioner was required to be arrested and brought back to prison.

5. So far as delay in surrender is concerned, the Division Bench of this Court has taken a view that the authority can always take action for delay in surrender in accordance with Rules and impose penalty. In that view of the matter, the petition is liable to be allowed. Hence, following order.

ORDER.

- 1) Criminal Writ Petition No. 13/2015 is allowed.
- 2) The petitioner shall be released on furlough leave for 14 days on executing surety. The petitioner shall surrender on due date without fail.
- 3) While on leave, the petitioner shall mark his presence with Police Station, Deoli, District Wardha on every alternate day in between 10 a.m. to 12 noon.

JUDGE

JUDGE