

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

CRIMINAL APPLICATION (APPW) No. 28 OF 2015

IN

CRIMINAL WRIT PETITION No.338 of 2014 (D)

Dilip s/o Mahipatrao Zungre (In Jail)

-Versus -

The Superintendent, Central Prison, Amravati and another.

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

Ms. S.P. Kulkarni, Advocate (appointed) for petitioner.
 Shri V.A. Thakre, APP for respondents.

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

DATED : 23rd APRIL, 2015.

1. Heard learned counsel for both the sides. Perused the affidavit in reply filed by the respondents.

2. It is noted that petitioner had earlier filed application for grant of furlough to visit his family on 12.7.2013 which came to be rejected on considering adverse police report since the petitioner while on furlough/parole leave surrendered late by 4 days and was required to be arrested and brought back to prison after 24 days respectively. We further find that against the said rejection order present petition was filed wherein vide order dated 7.11.2014 the competent authority was directed to consider the request afresh in accordance with law.

In view of above said direction, it is noted that fresh police report was obtained wherein it was stated that the petitioner is habitual in surrendering late and it is also apprehended that in the event of release of petitioner on parole leave, there is likelihood of law and order problem and disturbance to the peace and tranquility in the village. In that view of the matter, on considering the request of petitioner, afresh, it came to be rejected.

3. Having considering the above facts though we find that so far as the apprehension with reference to likelihood of breach of peace and tranquility is concerned, the respondent authorities have simply made such statement but have not given any details to fortify their contention. Hence, we find that such apprehension is without any basis. However, in view of fact of petitioner being required to be arrested while on parole earlier, we find no substance in the petition in view of the view taken by the Division Bench of this Court in the case of **Murlidhar Ramchandra Bhalerao Vs. State of Maharashtra and others** reported in **2011 All M.R. (Cri) 2132** that if the petitioner released on furlough and parole leave was required to be arrested for bringing back to prison, he is not entitled to be released on furlough and parole leave again. In the circumstances, the criminal application is liable to be dismissed. Hence, we make the following order.

ORDER.

1. Criminal Application (APPW) No. 28/2015 is dismissed.
2. Legal fees to be paid to the appointed counsel is quantified as Rs. 1,500/-.

JUDGE

JUDGE