

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

CRIMINAL WRIT PETITION NO. 288 OF 2015

(Nandkishor s/o Prabhudyal Bawankar vs. State of Maharashtra thr. D.I.G. (Prinsons)(E), Nagpur & Anr.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
JUNE 08, 2015.**

Heard Shri Sharma, learned counsel for the petitioner and Shri Mirza, learned AGP for the respondents.

Perused the reply affidavit filed on behalf of Respondent No. 2 – The Superintendent of Prisons, Central Prisons, Nagpur.

The fact that furlough leave is due to the petitioner is not in dispute. It is denied only because of apprehended breach of peace in the locality. The said order dated 15.03.2015 has been questioned in present petition. According to Shri Sharma, learned counsel, the order does not show that either prosecutrix or her family resides in the very same area. He further states that the marriage of real sister of the applicant is scheduled on 10.06.2015.

The learned APP points out that there is nothing on record about marriage of real sister. He further submits that it is not clear whether the prosecutrix or her family members are not residing in the very same locality. According to him, the impugned order does not call for any interference. In the alternative and by way of abundant precautions, he

submits that if this Court is inclined to extend furlough leave to the petitioner, he should be directed to keep away from the locality in which breach of peace is apprehended.

After hearing the respective counsel, we find that apprehended breach of peace is a specific ground in the impugned order. The petitioner has not come up with the challenge that the prosecutrix or her family members are not residing in that locality where the petitioner or his family resides. As already noted above, entitlement of the petitioner to furlough leave otherwise is not in dispute.

In this situation, as the material on record does not support the apprehension, as expressed in the impugned order, we direct the respondents to release the petitioner on furlough leave in accordance with law forthwith keeping in view the marriage scheduled in the family on 10.06.2015. If the prosecutrix or her family members are residing in the very same locality in which the petitioner resides, the petitioner shall not reside in that locality during the period of furlough. He shall report after every two days at Hudkeshwar Police Station in Nagpur city during the said period.

Criminal Writ Petition is thus partly allowed and disposed of.

An authenticated copy of this order be furnished to the petitioner.

JUDGE

JUDGE