

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 233 OF 2016

Ramesh s/o Gangaram Sonkamble
age 43 years, occ. Nil
r/o Prison no.9630,
Central Jail, Aurangabad.

.. PETITIONER

VERSUS

The State of Maharashtra

.. RESPONDENT

Mr. H.I. Pathan, amicus curiae (appointed) for petitioner.
Mr. S.Y. Mahajan, APP for the State.

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**CORAM : R.M. BORDE &
P.R. BORA, JJ.
DATE : 4th MAY, 2016.**

PER COURT :

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

2. Application tendered by petitioner for his release on furlough has been turned down by the Deputy Inspector General, Aurangabad which order has been confirmed by the Inspector General (Jail), Maharashtra State, Pune. Reason for rejection of the request is attributable to the adverse report forwarded by the local police. It is recorded by the Sub-Inspector, Mukhed police station that since the victim also resides at village Undri, Tq. Mukhed, it is not desirable to release the petitioner and permit

him to enter the boundaries of the village. Presence of petitioner in the village would likely lead to breach of peace.

3. Petitioner was arrested in connection with crime on 22.08.2013 and has been sentenced to imprisonment of seven years by order passed by the learned Sessions Judge on 18.01.2014. It is not a matter of dispute that petitioner is entitled to be released on furlough since he has completed the requisite jail term. It also cannot be controverted that to avail furlough leave is the right of the prisoner and the same cannot be denied unless exceptional circumstances are brought to the notice. Petitioner can be released subject to imposition of certain reasonable conditions which would take care of the apprehension expressed by the local police as regards breach of peace in the village. It is informed that petitioner is willing to stay at Kinala, Tq. Biloli, Dist. Nanded and, his brother-in-law has agreed to furnish surety on his behalf. Petitioner thus can be granted furlough leave subject to condition that he shall continue to stay during the period of his release within the boundaries of Biloli taluka and shall report to police station Biloli as and when directed by the jail authorities.

4. For the reasons recorded above, writ petition deserves to be allowed and the same is accordingly allowed. Respondents are directed to allow application tendered by petitioner praying for his release on furlough subject to reasonable conditions as permissible in law. Adverse orders passed by the authorities rejecting request of petitioner for his release on furlough are quashed and set aside. Rule made absolute accordingly.

5. Learned counsel appointed as amicus curiae to assist the Court shall be paid remuneration quantified at Rs. 5,000/-.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

dyb