

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.332/2016

Kashiram @ Pintyya Rama Salunke,
Convict No.C-130, age major,
occu.nil, presently in jail Visapur,
Open District Prison, Visapur.
Dist.Ahmednagar.

...Petitioner..

Versus

1] The State of Maharashtra,
through Superintendent of District
Open Prison, Visapur.
Dist.Ahmednagar.

2] Inspector General of Prisons,
Western Division, Pune.

...Respondents...

.....

Shri Swapnil B. Joshi, Advocate appointed for petitioner.
Shri K.S. Patil, APP for respondent nos.1 & 2.

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**CORAM: R.M. BORDE &
K.L. WADANE, JJ.**

DATE: 18.04.2016

ORAL JUDGMENT : (Per Borde, J.)

1] Heard learned counsel for the parties. Rule.
With the consent of learned counsel for the parties, the
petition is taken for final disposal at the admission
stage.

- 2 -

2] The petitioner is praying for issuance of a writ directing the respondents to release him on furlough by executing P.R. Bond and on cash security. The petitioner tendered an application for release on furlough, which was not considered earlier. As such, he approached this Court by way of presenting Criminal Writ Petition No.291/2015. A direction was issued by this Court while disposing of said petition to take decision on the application tendered by the petitioner for his release on furlough expeditiously. The petitioner was directed to submit surety of his near relation to ensure his return back to the prison. Since the petitioner was not in a position to furnish surety, his application has not been considered favourably.

3] Learned counsel appearing for the petitioner informs that the petitioner has actually undergone imprisonment for a period of more than 10 years, whereas he has earned remission for 4 years 1 month and 5 days. The total period of imprisonment as such until April, 2016, is 14 years 8 months and 4 days. The petitioner was never released on furlough any time prior to presentation of the instant petition. It is the

- 3 -

petitioner that merely because he is not in a position to furnish surety of his near relation, his application cannot be turned down.

4] Reliance is placed on the Full Bench judgment of this Court dated 4.5.2011 in the matter of *Dipak Sudhakar Wakalekar v. State of Maharashtra & others* reported at **2011 CRI.L.J. 3263**. The issue referred for consideration to the Full Bench was as to whether as per proviso to Rule 6 of The Prison (Bombay Furlough and Parole) Rules, 1959, a convict confined in open prison, can be released on parole / furlough by the authorities by dispensing with the requirement of execution of bond by the relatives. The Full Bench has opined that in view of proviso to Rule 6 of the Rules, 1959, a convict confined in open prison can be released on furlough by the Sanctioning Authority by dispensing with the requirement of execution of bond by the relatives.

5] In view of the decision of the Full Bench referred to above, there shall be no impediment for consideration of the application tendered by the petitioner favourably for his release on furlough without insisting for execution of surety bond by his relatives.

- 4 -

Since the petitioner is already in jail for more than 10 years, it shall be presumed that he must have earned some amount, which must have been deposited in his account. The petitioner in these circumstances can be directed to execute a P.R. bond and also furnish cash security, since the amount to which the petitioner is entitled to, is lying with the jail authorities.

6] In view of above, we direct the respondents to release the petitioner on furlough on execution of the P.R. Bond as well as on condition of furnishing cash security (in the sum of the amount, which is already lying with the jail authorities) as expeditiously as possible and preferably within a period of four weeks from today. Rule is made absolute accordingly.

7] Shri Swapnil Joshi, learned counsel appointed as *amicus curiae* in the matter shall be paid legal remuneration of Rs.5,000/-.

(K.L. WADANE, J.)

(R.M. BORDE, J.)