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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.333/2016

Arvind s/o Anuplal Potdar,
age yrs., occu. Prisoner Convict No.144,
r/o at Zanjara Post Mahadipur,
Tq.Gogari Jamalpur Dist.Khagadia,
State: Bihar, at present in Open
Prison at Visapur Dist.Ahmednagar.
...Petitioner..

Versus

- 1] The State of Maharashtra.
- 2] The Deputy Inspector General of
Prison / West 6th Division, Pune.
- 3] The Superintendent of Open Prison
at Visapur. Dist.Ahmednagar.
...Respondents...

.....
Smt.B.B. Gunjal, Advocate appointed for petitioner.
Shri D.R. Kale, APP for respondent nos.1 to 3.
.....

**CORAM: R.M. BORDE &
P.R. BORA, JJ.**

DATE: 26.04.2016

ORAL JUDGMENT (Per Borde, J.) :

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

2] An application tendered by the petitioner for release on furlough leave on execution of Personal Bond has not been considered favourably and as such the petitioner has approached this Court. A request in that regard has been turned down by the respondent no.2 by order dated 1.1.2016.

3] The petitioner states that he is a life convict undergoing sentence of imprisonment since 6.12.2001. The petitioner has undergone the period of imprisonment of about 19 years and 3 months inclusive of the period of remission. The petitioner has been categorized as Category 02(B) and is required to be lodged in prison for about two years. A proposal for premature release of the petitioner on completion of 22 years of imprisonment is already forwarded to the State Government and the decision is awaited.

4] The petitioner contends that since the date of his arrest and during the course of imprisonment, he has

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never availed the furlough leave since he could not tender the surety. The petitioner places reliance on the Full Bench judgment in the matter of *Dipak Sudhakar Wakalekar v. State of Maharashtra & others* reported at **2011 CRI.L.J. 3263** and contends that in view of Rule 6 of the Rules of 1959, a convict confined in Open Prison can be released on furlough by sanctioning authority by dispensing with the requirement of execution of bond by the relatives. It is not a matter of dispute that the petitioner is lodged in Open Prison and is entitled to be released on furlough.

5] In view of above, the request made by the petitioner for his release on furlough needs favourable consideration. The order dated 1.1.2016 issued by the respondent no.2 refusing the request of the petitioner for his release on furlough on execution of P.R. bond is quashed and set aside. The respondents are directed to release the petitioner on furlough leave on execution of P.R. Bond with cash surety that may be determined by releasing authority, within the prescription of relevant rules, expeditiously. Since the petitioner is lodged in jail for long duration of more than 14 years, the amount

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earned by him during jail term must have been deposited with jail authorities. Said amount can be considered as cash surety.

6] Rule is made absolute accordingly. There shall be no order as to costs.

7] Smt.B.B. Gunjal, learned counsel appointed to represent the petitioner, shall be paid legal remuneration of Rs.5,000/-.

(P.R. BORA, J.)

(R.M. BORDE, J.)