

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

CRIMINAL WRIT PETITION NO.1047 OF 2016

Ranjit Badri Roy,
(Convict No.7104),
Age-32 years, Occ.Prisoner,
r/o. Central prison, Harsool,
Aurangabad ..Petitioner

Vs.

The State of Maharashtra,
through Dy Inspector General
of Prisons, Central Region,
Aurangabad ..Respondent

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Mr.N.K.Tungar, Advocate for petitioner

Mr.A.R.Borulkar, APP for respondent

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : OCTOBER 20, 2016**

PER COURT :

Heard the learned Counsel appearing for
the petitioner and the learned A.P.P. appearing
for the respondents.

2. The respondent/authority passed the
impugned order dated 07.06.2016 releasing the

petitioner on furlough on certain conditions. It is stated in condition no.1 that the petitioner/prisoner shall execute a cash security of Rs.5,000/- and his personal bond of Rs.20,000/-. The petitioner was also directed to execute a surety bond of his relative (guarantor) of Rs.20,000/- and a surety bond of a non-relative (guarantor) of Rs.20,000/-. The petitioner is aggrieved by imposition of the said conditions by the respondent/authorities.

3. The learned Counsel for the petitioner submits that the Gujarat High Court in the case of **Natia Jiria Vs. State of Gujarat and ors., 1984 Cri.L.J.936** has taken a view that a prisoner undergoing life imprisonment, who is not able to furnish surety, can be released on executing the personal bond without insisting for a cash security. The learned Counsel submits that in the present case, the petitioner may be released on

executing the personal bond and cash security only.

4. The learned A.P.P. appearing for the respondents, relying on the provisions of Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959 ("the Prison Rules", for short) and the averments in the affidavit-in-reply, submits that in case the petitioner, who is undergoing the life imprisonment and who is from the State of Bihar, is released without surety, he may not be available to undergo the remaining sentences.

5. We have considered the submissions advanced by the learned Counsel appearing for the petitioner and the learned A.P.P. appearing for the respondent - State

6. In the case of **Natia Jiria** (supra), the petitioner therein was undergoing the imprisonment in Open Prison, however, in the present case, the

petitioner is undergoing the imprisonment in Central Prison, Aurangabad, which is not Open Prison. In the present case, Rule 6 of the Prison Rules is relevant, wherein it has been expressly provided that the prisoner shall not be granted furlough unless he has a relative willing to receive him while on furlough and ready to enter into a surety bond in Form A appended to the said Rules for such amount as may be fixed by the Sanctioning Authority. There is proviso to the said Rules, however, discretion given by the said proviso to the sanctioning authority, is in respect of the prisoners who are undergoing the sentence in Open Prison. In such a case, the authority can exercise its discretion and release the prisoner confined in Open Prison only, on his furnishing personal bond and cash security.

7. Therefore, in the light of the discussion herein-above, we are unable to persuade ourselves

to accede to the prayers made by the petitioner in the present petition. Hence, the petition stands rejected.

8. Since Mr.Tungar, the learned Counsel is appointed as an amicus curiae to prosecute the cause of the petitioner, his fees be paid as per the schedule of fees maintained by the High Court Legal Services Sub-Committee, Aurangabad.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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