

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

CRIMINAL WRIT PETITION NO. 1570 OF 2015

Dalpatsing Ganeshsing Rajput

(C-4798) (Convict),

Open Prison, Paithan

...Petitioner

VERSUS

1] The State of Maharashtra,
through D.I.G. Prisons, Aurangabad,

2] Superintendent, Open Prison,
Paithan, Dist.Aurangabad

...Respondents

Mr. Rupesh Jaiswal, Advocate (appointed) for the petitioner
Mr. S.P.Sonpawale, APP for Respondent/State

**CORAM : A.V.NIRGUDE &
INDIRA K. JAIN, JJ.**

DATED : 5th January, 2016

ORAL JUDGMENT : [Per Indira K.Jain, J.]

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

2] The grievance made in this Writ Petition received through jail is as regards the conditions imposed vide order, dated 31.8.2015 by respondent no.1 allowing furlough leave to the petitioner.

3] Petitioner is a life convict in a Sessions Case under Section 302 of the Indian Penal Code. He is in jail since 12 years. He applied for furlough leave to respondent no.2. Vide impugned order three weeks furlough leave came to be granted to the petitioner on the conditions specified in the order. The conditions which are the subject matter of the Writ Petition are : -

- i] Petitioner shall execute cash security of Rs.10,000/-
- ii] Petitioner shall execute surety bond of his relative (guarantor) in the sum of Rs.10,000/- and of the non-relative (guarantor) for the same amount.
- iii] Petitioner shall attend Sadadi police station twice a day.

4] According to the petitioner he is a poor person and unable to furnish surety bonds. He submits that he is the only earning member in his family and considering his financial condition

authority ought to have released him on P.R. bond.

5] We have considered Rule 6 of the Prisons (Bombay, Furlough and Parole) Rules, 1959. As per Rule 6, a convict confined in open prison can be released on bond by the relatives and Proviso to Rule 6 empowers the sanctioning authority to dispense with the requirement of execution of such bond by relatives of the prisoner confined in open prison as defined in clause (b) of Rule 2 of the Maharashtra Open Prisons Rules, 1971. The release of petitioner on P.R. bond in view of the Proviso is not an absolute right. The discretion vests with the authority concerned to release the convict on furlough on execution of surety bond or on P.R. bond.

6] In the present case, petitioner is resident of Mundara within the jurisdiction of Sadadi police station, Taluka Bali, District Pali in the State of Rajasthan. He was convicted in the year 2004 by the Sessions Court, Nashik for the offence under Section 302 of the Indian Penal Code.

7] In the above premise, we do not find any error in the impugned order imposing conditions to release the petitioner on

furlough leave. Petition is thus devoid of substance.

8] Criminal Writ Petition No. 1570 of 2015 stands dismissed. Rule is discharged. No order as to costs.

9] Fees of the learned counsel appointed is quantified at Rs.1500/- (Rs.One Thousand Five Hundred Only).

[INDIRA K. JAIN, J.]

[A.V.NIRGUDE, J.]

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