

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 272 OF 2015**

Sanjay Sadubhau Dalvi

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

....
Mr. Sachin Chandan Advocate appointed for Petitioner
Mrs. A.S. Pai A.P.P. for the State
....

**CORAM : SMT.V.K.TAHILRAMANI AND
MRS. MRIDULA BHATKAR, JJ.**

DATED : JUNE 14, 2016

ORAL ORDER : [PER SMT. V.K.TAHILRAMANI, J.]:

1 Heard both sides. Rule. By consent, Rule is made returnable forthwith.

2 The petitioner preferred an application for furlough on 2.1.2014. The said application came to be rejected by order dated 26.3.2014. Being aggrieved thereby, the petitioner preferred an appeal. By order dated 17.6.2014, the said appeal came to be allowed on condition that the petitioner

furnishes a suitable and competent surety and during the period that the petitioner is on furlough, he will not enter into Thane city. In addition, condition was imposed that the surety as well as the petitioner would give surety bond. In view of the fact that when the petitioner was earlier released on parole, he did not report back in time, it was directed that the petitioner should furnish some other surety than the surety furnished earlier. This was on account of the fact that it was felt that the said surety would not be able to keep a check on the petitioner which was evident from the fact that on the earlier occasion the petitioner did not report to the prison in time. However, though the appeal was allowed, the petitioner again wrote back to the authorities that he be released on furlough on furnishing the same surety which he had furnished earlier as he had no other surety. Thus the prayer of the petitioner is that he be released on furlough without furnishing surety or on furnishing the same surety.

3 Rule 4(6) of the Prisons (Bombay Furlough and Parole) Rules, 1959 states that furlough cannot be granted without surety. It is further stated that a 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 Rules for such amount as may be fixed by the sanctioning authority, provided that the sanctioning authority may dispense with the requirement of execution of such bond by relatives of prisoners confined in open prisons as defined in clause (b) of Rule 2 of the Maharashtra Prisons, Rules 1971. The petitioner is not in open prison. The Supreme Court in the case of ***State of Maharashtra and another Vs. Suresh Pandurang Darvakar; (2006) 4 SCC 776***, has observed that it will be incorrect to release a prisoner on furlough without the prisoner furnishing surety.

4 In view of the above, no fault can be found with the authorities for not accepting the surety which was furnished earlier by the petitioner.

5 The authorities thereafter by order dated 2.12.2014 informed the petitioner that his request that he be released on the same surety which he had furnished earlier, was rejected and when the petitioner becomes eligible for furlough, he may

make a fresh application for furlough.

6 In view of the above facts and specially Rule 4(6) of the Prisons (Bombay Furlough and Parole) Rules, 1959, we cannot find any error with the order passed by the authorities on 2.12.2014, hence, Rule is discharged.

[MRS. MRIDULA BHATKAR, J.]

[SMT. V.K.TAHILRAMANI,J.]

kandarkar