

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1846 OF 2014

Sidhappa Vishawanath Aawale

...Petitioner

Versus

The State of Maharashtra

...Respondent

...

Ms Nasreen Ayubi for the Petitioner.

Mr. H.J. Dedhia, APP for the Respdt.-State.

**CORAM: SMT. V.K. TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 25th APRIL, 2016.

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

Rule. By consent rule is made returnable forthwith.

2. The petitioner had preferred an application for furlough on 12.2.2013. The said application came to be rejected by order dated 20.11.2013. Being aggrieved the Petitioner preferred an appeal, which was dismissed by order dated 12.3.2014.

3. The application of the Petitioner for furlough was rejected mainly on the ground that the surety proposed by the Petitioner i.e. Avinash Vishawanath Aawale is the complainant in the case in which the Petitioner has been convicted and sentenced as he has killed his wife and daughter. Hence, it was apprehended

that as the surety was also the brother of the Petitioner as well as the complainant in the said case he would not be able to keep control over the Petitioner.

4. The Petitioner challenged the rejection order dated 20.11.2013 and the order in the appeal dated 12.3.2014 by filing the present writ petition No.1846 of 2014. By order dated 29.10.2014 this Court directed the concerned authorities to find out whether the brother of the Petitioner was willing to stand as surety. This was done on account of the fact that earlier when the police report was called for, the brother of the Petitioner did not remain present before the police station for enquiry purpose. Thereafter the report of the surety was called for and the report stated that the surety i.e. Avinash Vishawanath Aawale who is the real brother of the Petitioner is willing to stand as surety for the Petitioner. However, it was felt that as surety proposed by the Petitioner i.e. Avinash Vishawanath Aawale was also the complainant in the case, in which case the Petitioner was convicted under section 302 of the IPC and in view of the fact that the petitioner was a member of the Ravi Pujari gang it was felt that the surety would not be able to keep a control over the Petitioner and will not be able to ensure that the Petitioner surrenders back to the prison in time. On this ground application for furlough again came to be rejected by order dated 19.11.2014.

5. Looking to the above facts we are not inclined to interfere. However, if the petitioner prefers a fresh application for furlough and he is willing to furnish some other surety who is competent and suitable and if the conduct of the petitioner in prison has been good, the authorities may consider granting furlough to the petitioner.

6. In view of the above, rule is discharged.

7. Office to communicate this order to the Petitioner, who is in Yerawada Central Prison, Pune.

(SMT. ANUJA PRABHUDESSAI,J.) (SMT. V.K. TAHILRAMANI,J.)