

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 293 OF 2016

(Pintu @ Amit Mahadeo Bhaskar (in Jail) vs. State of Maharashtra thr. Dy. Inspector General of
Prison, Central Prison, Eastern Region, Nagpur & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
AUGUST 16, 2016.**

Heard Shri S.D. Chande, learned counsel for the petitioner and Shri N.B. Jawade, learned counsel for the respondents.

The furlough leave has been declined to the petitioner on account of his alleged involvement in an assault on one Uttareshawar Nivrutti Gaikwad, an Officer in the Jail in which the petitioner was then undergoing imprisonment. Because of this involvement, his leave application was rejected and that denial was set aside by this Court in Criminal Writ Petition No. 826 of 2016.

A perusal of order dated 20.01.2016 passed by this Court shows that this Court was not satisfied with the material made available by the respondents. The matter was, therefore, remanded. The impugned order has been passed on 18.02.2016 and again for the very same assault, furlough leave has been declined.

The alleged assault is on 10.09.2014 and in its Criminal Writ Petition, the petitioner has on an affidavit pointed out a condition of his release on trial then. He states that he reported at the concerned Police Station on

11.09.2014 and thereafter on 13.09.2014. He was arrested on 14.09.2014.

The impugned order mentions that because Shri Gaikwad had ill-treated the petitioner in jail, the petitioner had a grudge against him and, therefore, when he was given parole, he assaulted Shri Gaikwad while Shri Gaikwad was moving on street and damaged his Swift Motor Car. The report has been lodged immediately.

A perusal of the order dated 01.10.2014 passed by the Ad-hoc Additional Sessions Judge-1, Kolhapur, on Criminal Bail Application No. 529 of 2014 shows that said report is against unknown person.

If motive behind attack is accepted, report could not have been against unknown person. Similarly, if the complaint is lodged on 10.09.2014 itself, the applicant would not have been permitted to leave Police Station on 11.09.2014 or then on 13.09.2014 after putting signature and marking his attendance. Thus, the facts though specifically taken as grounds in writ petition before this Court, have not been satisfactorily met with by the respondents.

In this situation, we quash and set aside the impugned order dated 18.02.2016. The respondents are directed to release the petitioner on furlough after obtaining necessary undertaking and bonds in accordance with law within a period of three weeks from today.

Writ Petition is thus allowed. No costs.

JUDGE

JUDGE

C E R T I F I C A T E

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

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