

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

CRIMINAL WRIT PETITION NO. 357/2016.

Jitendra Dayaram Jangam

-VERSUS-

The State of Maharashtra and another.

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
AND S.B. SHUKRE, JJ.

DATE : NOVEMBER 18, 2016.

Heard Shri A.Y. Sharma, learned counsel
(appointed) for the petitioner and Shri M.J. Khan,
learned A.P.P. for respondents. Perused impugned
order and judgment reported at **2016 All MR (Cri)**
4128 (Sharad Devaram Shelake .vrs. The State of
Maharashtra).

2. First furlough has been declined to the
petitioner on the ground that the amendment brought
into force from 01.12.2015, does not allow him to
claim that benefit. Second reason is, his surety is not
competent.

3. Perusal of the above mentioned judgment
shows that such amendment which takes away

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benefits, applies prospectively and therefore, regulate applications moved after the amendment comes into force. Here the application was made by the petitioner on 18.11.2015 and the amendment has come into force thereafter. As such the amendment dated 01.12.2015 cannot be used to the prejudice of the petitioner.

4. Similarly, as this is first release, it cannot be said that his sister is not competent to control him or supervise his stay after release.

5. Respondents are always free to impose appropriate conditions for that purpose. Hence, in this situation, we quash and set aside the order dated 04.02.2016 passed by respondent no.1, and direct the respondents to release the petitioner within a period of three weeks from today, after completing all necessary formalities.

6. Criminal Writ Petition is accordingly disposed of. No costs.

7. Fees payable to the counsel appointed for the petitioner is quantified at Rs.1500/-.

JUDGE

JUDGE

Order

1811WP357.16

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Rgd.