

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

CRI. WRIT PETITION NO.435 OF 2016.

(SHARAD DAULAT MOON..VS.. SUPERINTENDENT OF POLICE, CENTRAL JAIL & ANR.)

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

Court's or Judge's orders

Shri G.L.Agrawal, Advocate (appointed) for Petitioner.
Shri J.Y. Ghurde, A.P.P. for Respondent Nos. 1 & 2.

CORAM : B.P.DHARMADHIKARI AND
A.S.CHANDURKAR, JJ.

DATED : SEPTEMBER 07, 2016.

Heard.

Furlough has been denied to the petitioner on 25/01/2016 on the ground that on earlier occasions when he was released, he did not report back within time and was required to be arrested and brought back on two occasions.

Advocate Shri Agrawal submits that on 13/07/2010 when the applicant was released on parole because of circumstances beyond control he overstayed and was brought back after arrest. The period of overstay was 142 days and for that he has already undergone punishment for 710 days. He further adds that the alleged offence committed by the surety way back in 2000 cannot be the reason to discard that surety at this stage.

The learned A.P.P. is relying upon the provisions to urge that as the petitioner is found to have absconded on four occasions the discretion exercised by respondent No.2 cannot be said to be arbitrary.

The petitioner has invited our attention to the judgment dated 2nd August, 2016 in Criminal Writ Petition No. 406 of 2016 which in turn relies the Division Bench judgment in the case of *Sitaram Rajaram Deokar Vs. Deputy Inspector General of Prison*, reported in **2014 ALL MR (Cri.) 1309**.

We find that the surety which was permitted to stand as such on later occasions could not have been discarded because of the previous crime committed by him. In any case, the petitioner could have been asked to substitute that person.

Similarly, after 13/07/2010 for almost past 5 to 6 years the petitioner has not been released on any date. He has already undergone punishment inflicted upon him. In this situation, following judgments of this Court, mentioned supra, we find the petitioner entitled for grant of furlough. After obtaining appropriate surety bonds and undertaking from the petitioner as also his sureties, the respondent shall arrange to release him within next four weeks.

The petition stands disposed of.

The charges of the appointed counsel are fixed at Rs.1500/-

JUDGE

JUDGE

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

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