

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

**CRIMINAL WRIT PETITION NO.527 OF 2016**

**Suraj S/o Shyam Arkhel**

**..VS..**

**The D.I.G. Prison (E)(R), Nagpur, Tahsil and District Nagpur and ors**

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

Court's or Judge's Order

Shri R.G. Bagul, counsel for the petitioner (appointed).  
Mrs. M.H. Deshmukh, Addl.P.P. for the respondents/State.

**CORAM : B.P. DHARMADHIKARI &  
S.B. SHUKRE, JJ.**

**DATED : NOVEMBER 17, 2016.**

Heard learned counsel Shri R.G. Bagul appointed for the petitioner and learned Additional Public Prosecutor Mrs. M.H. Deshmukh for the respondents/State.

Learned counsel Shri R.G. Bagul submits that though the petitioner has reported late on several occasions, on most of the occasions he has reported back voluntarily. He, therefore, states that merely because there is late reporting, right to enjoy furlough leave cannot be denied.

Learned Additional Public Prosecutor Mrs. M.H. Deshmukh is relying upon the impugned order. She submits that in impugned order material on record has been looked into and, thereafter, a finding has been arrived. As such, there is no jurisdictional error.

Merely because there is late reporting,

furlough leave could not have been declined. The respondents in the impugned order nowhere point out that for such late reporting, any prison punishment has been imposed upon the petitioner. Because of eleven instances of late reporting, an inference has been drawn that if the petitioner is granted furlough leave, possibility of the petitioner reporting not in time cannot be ruled out. Though inference cannot be said to be perverse, correctness of denial of furlough because of that inference or relevance of that inference insofar as grant of furlough is concerned has not been looked into.

In this situation, we grant the petitioner leave to make appropriate representation to the respondents pointing out circumstances in which he could not report back on due date and the respondents, thereafter, shall evaluate that representation and find out whether the petitioner was constrained not to report on due date.

The writ petition is, thus, partly allowed and disposed of.

The charges of learned counsel Shri R.G. Bagul appointed for the petitioner are fixed at Rs.1,500/- (rupees one thousand five hundred only).

JUDGE

JUDGE

!! BRW !!

**C E R T I F I C A T E**

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

Uploaded by : Bhushan R.Wankhede.  
(Personal Assistant)

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