

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 455 OF 2017

Balaji s/o Abji Puyad (C-7080)  
Central Prison,  
Aurangabad

Petitioner

Versus

1. The State of Maharashtra  
Through D.I.G.  
Prisons, Aurangabad.
2. The State of Maharashtra  
Through Superintendent of Central Prison  
Aurangabad.

Respondents

Mr. R.A. Jaiswal, advocate for the petitioner.  
Mr. K.S. Patil, A.P.P. for both respondents.

**CORAM : R.M.BORDE &  
K.K. SONAWANE, JJ.  
DATE : 5<sup>th</sup> JUNE, 2017**

**ORAL JUDGMENT : ( PER R. M. BORDE, J. )**

1. Rule. Rule made returnable forthwith.
2. Heard finally at admission stage with the consent of learned counsel for the respective parties.
3. The application tendered by petitioner for releasing him on furlough has been turned down on 14.02.2017, which order is subjected to challenge in this petition.
4. The reason for turning down the request of the petitioner for

releasing him on furlough is that on earlier occasion on 25.02.2011, when he was released on furlough leave, he surrendered to the jail late by twenty three days. Similarly, on next occasion, petitioner was granted furlough on 20.4.2011 and he reported late by 146 days. On third occasion, when petitioner was released on furlough on 23.04.2012, he surrendered late by 570 days and as such, offence under section 224 of Indian Penal Code being Crime No. 18/2013 was registered at Mukhed Police Station. As a consequence thereof, penalty has been imposed on all the three occasions and, on the last occasion, his name has been directed to be removed from remission register.

5. It is the contention of petitioner that his application for grant of furlough leave has been rejected after 20.02.2012 on two occasions and, on one occasion, he was released on parole. Petitioner states that he reported before the time prescribed after availing parole benefit in the year 2016. It is the contention of petitioner that since penalty has already been imposed against him for late reporting, his application for grant of furlough leave to which he is entitled as per the prison rules, ought not have been rejected.

6. It is not a matter of dispute that petitioner is entitled for 28 days of furlough leave. Considering the contentions raised, we are of the opinion that the application tendered by petitioner ought to have been considered favourably within the framework of rules. Petitioner is ready to furnish surety as may be prescribed for ensuring his surrender to prison on completion of the period of furlough leave.

7. Subject to prescription of the necessary conditions for grant of furlough leave, the respondent-authorities, shall grant furlough leave for 28 days as requested by petitioner. The order dated 24.02.2017 rejecting the request of the petitioner for grant of furlough leave is quashed and set aside. Necessary order shall be passed within a period of two weeks from today.

8. Rule is accordingly made absolute.

**( K. K. SONAWANE )**  
**JUDGE**

**( R.M.BORDE )**  
**JUDGE**

dyb