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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4540 OF 2016

Sujit Vitthal Sutar

...Petitioner

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Rahul Arote, Advocate for the Petitioner

Mr. H.J. Dedia, A.P. P. for the State

CORAM : SMT. V.K. TAHILRAMANI, &

M.S. KARNIK, JJ.

DATED : 1ST FEBRUARY, 2017

P.C. :

Heard both sides.

2. The Petitioner preferred an application for furlough, which is granted by order dated 26th October, 2016. Pursuant to the said order the Petitioner was released on furlough on 8th December, 2016 for a period of 28 days. The grievance of the Petitioner is that though he was granted furlough for a period of 28 days, which started from 8th December, 2016 he was arrested by police authorities on 13th December, 2016 and sent back to the prison. Hence, the prayer of the

Petitioner is that he be released on furlough for the remaining period of furlough, which is granted to him by order dated 26th October, 2016.

3. The learned A.P.P pointed out that the order whereby the Petitioner was granted furlough states that he will spend his period of furlough in village Hadshiwadi, Post: Bharne, Taluka: Khed, District: Ratnagari. The said order also states that the Petitioner shall not leave the said village without permission of the concerned District Collector or Superintendent of Police or an officer authorised by the same. The order further states at clause 7 that during the period of furlough the Petitioner will report every day in the morning as well as in the evening at Khed Police station. In Clause 9 of the said order it is stated that if the Petitioner during the period when he is on furlough violates any terms and conditions of the order granting furlough, he shall be immediately arrested and brought back to the prison.

4. The learned A.P. P has filed an affidavit of Shri R.D. Adangale, Police Inspector attached to Rabale Police Station, Navi Mumbai. It is

stated in the said affidavit that secret information was received by their Police Station that the Petitioner who is released on furlough leave was residing at his residence at Sutar Tower, Sector-20, Flat No.511, Airoli, Navi Mumbai. Therefore, police officials along with two panchas went to the aforesaid residential address of the Petitioner at Airoli, Navi Mumbai. The Petitioner was found present at the said address. Police made inquiries with the Petitioner about permission from the concerned authorities to leave village Hadshiwadi, Post: Bharne, Taluka: Khed, District: Ratnagari. He failed to produce the same. It was also revealed that the Petitioner had not attended Khed Police Station as per the condition imposed on the Petitioner by the Deputy Inspector General of Prison at the time of releasing him on furlough. Hence, the Petitioner was taken to Rabale Police Station and a Station Diary Entry vide serial No.30 dated 12th December 2016 was prepared and by forwarding letter the Petitioner was sent to Khed Police Station on 12th December, 2016 for taking further steps.

5. Learned Counsel for the Petitioner submitted that as the Petitioner was unwell he went to Airoli, Navi Mumbai to take

treatment. It is submitted that when the petitioner was taken to Khed police station, he was sent to Civil Hospital at Khed by Khed Police station. There he was examined by the Doctor and the petitioner gave history that he was suffering from Acute epigastric pain with projectile vomiting with hypertension.

6. Thus learned Counsel for the Petitioner submitted that on account of the ill health of the Petitioner the Petitioner left village Hadshiwadi, Post: Bharne, Taluka: Khed, District: Ratnagari and went to Airoli, Navi Mumbai. That may be so, but the Petitioner should have taken permission from the concerned authorities as per the terms and conditions of the order granting him furlough. However, the Petitioner has not done so. The petitioner through someone should have at least informed Khed police station where he was supposed to attend twice daily about leaving the area but that also has not been done. The Petitioner has clearly flouted the terms and conditions imposed on him by order dated 26th October, 2016 while granting furlough. Hence, in our opinion no case is made out to release the Petitioner on furlough for the remaining period of furlough.

7. It will be open to the Petitioner to make a fresh application for furlough when he is due, pointing out all the above facts which will be considered by the authority on its own merits.

8. No case is made out for interference. Rule discharged.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)