

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 234/2017

(JITENDRA SURAJLAL NEWARE (IN JAIL) **VERSUS** THE STATE OF MAHARASHTRA & ANOTHER)

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

Court's or Judge's orders

Mrs. A.A. Ghonge, Appointed Counsel for the petitioner.
 Mrs. N.R. Tripathi, Additional Public Prosecutor for the respondents.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : AUGUST 14, 2017.

By this criminal writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 20.12.2016 and seeks his release on furlough leave for 28 days.

It is stated on behalf of the petitioner that merely because the petitioner is convicted for an offence punishable under Section 302 of the Penal Code and he was held to be guilty of committing the murder of his son, the D.I.G. Prisons could not have rejected the furlough leave by observing that if the petitioner is released on furlough leave, he would commit an offence of a similar nature, specially when the father of the petitioner is ready to furnish surety for the release of the petitioner on furlough.

In the circumstances of the case, we do not find that the D.I.G. Prisons could have rejected the application of the petitioner for furlough leave after observing that if the petitioner is released on furlough leave, he would indulge in committing an offence of a similar nature. It is necessary to note that the father of the petitioner is ready to furnish surety

for the release of the petitioner under Rule 6 of the Rules of 1959. If that is so, it appears that there is no objection from the family members of the petitioner for his release on furlough leave.

Hence, we dispose of the criminal writ petition with a direction to the respondent no.2 to release the petitioner on furlough leave after the father of the petitioner furnishes the surety as is required by the provisions of Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959. The petitioner should be released on furlough leave within a period of seven days from the date on which his father furnishes the surety as required by Rule 6 of the Rules of 1959. Since the counsel for the petitioner is appointed through the Legal Aid Sub Committee, Nagpur, we quantify her professional fees at Rs.1,500/- which may be paid to the counsel, at the earliest.

Order accordingly.

JUDGE

JUDGE

APTE