

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

Criminal Writ Petition No.618 of 2017
(Samir s/o. Suresh Katkar .vs. State and another)

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

Court's or Judge's Orders

Mr.N.P.Meshram, Advocate for the Petitioner.
Mr.Ambarish Joshi, A.P.P. for Respondent Nos. 1 and 2.

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

DATE : 18.8.2017.

We find that the learned Counsel for the petitioner has not taken due care while drafting the petition. Hence, in the circumstances of the case, leave is granted to amend the Writ Petition by substituting the respondent/Divisional Commissioner, Nagpur by the D.I.G. (Prisons), Nagpur. Amendment should be carried out forthwith.

By this Criminal Writ Petition, the petitioner challenges the order of the D.I.G. (Prisons), Nagpur, dt.22.3.2017 rejecting the application of the petitioner for furlough leave.

On hearing the learned Counsel for the parties, we find that the D.I.G. (Prisons) was not justified in rejecting the application of the petitioner on the ground that the mother of the petitioner, who was ready to furnish surety for his release, could not have had control over the petitioner. As per the order of the D.I.G (Prisons), the

mother of the petitioner could not have taken the responsibility of the petitioner. We are not inclined to accept the reason recorded by the D.I.G. (Prisons) for rejecting the prayer of the petitioner for grant of furlough leave. Also, merely because the appeal is filed by the petitioner against the order of his conviction and in the said appeal, his bail application was rejected, we do not find that the application of the petitioner could have been rejected in view of Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 as the said Rule is subjected to challenge in a couple of Writ Petitions and this Court has granted parole to the petitioner in those Writ Petitions, when their applications were rejected by resorting to the provisions of Rule 4(11) of the Rules.

Hence, by quashing and setting aside the order of the D.I.G. (Prisons), we direct the respondents to release the petitioner on furlough leave within seven days from the date on which his mother furnishes the surety as required by Rule 6 of the Rules of 1959. Order accordingly.

JUDGE

JUDGE

**jaiswal*