

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

CRIMINAL WRIT PETITION NO. 675/2017

(ATUL RAMESH MHAISKAR (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.Prachi T. Joshi, Appointed Counsel for the petitioner.
 Ms N.R. Tripathi, A.P.P. for the respondents.

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

DATE : AUGUST 21, 2017.

By this criminal writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 20.03.2017 rejecting the application of the petitioner for grant of furlough leave.

The application made by the petitioner for grant of furlough leave was rejected by the D.I.G. Prisons by the order dated 20.03.2017 by resorting to the provisions of Rule 4(6) and Rule 4(10) of the Prisons (Bombay Furlough and Parole) Rules, 1959 only because on the previous occasions, the petitioner had not surrendered on the due dates. It appears that in the year 2011, the petitioner had surrendered 54 days after the expiry of the furlough leave and in the years 2014 and 2015, he had surrendered belatedly, 1 day and 2 days respectively after the expiry of the furlough or parole leave.

We do not find that the reason recorded by the D.I.G. Prisons is sufficient for rejecting the application of the petitioner for grant of furlough leave. Though, in the year 2011, the petitioner had belatedly surrendered 54 days after

the expiry of the leave, on the last two occasions in the year 2014 and 2015, there was a delay of only one or two days in surrendering. An opportunity needs to be granted to the petitioner to mend his ways. In the circumstances of the case, the impugned order is liable to be quashed and set aside.

Hence, for the reasons aforesaid, the criminal writ petition is allowed. The impugned order is quashed and set aside. The respondents are directed to release the petitioner on furlough leave within seven days from the date on which the relative of the petitioner furnishes the surety as required by Rule 6 of the Rules of 1959. The professional fees of the learned counsel for the petitioner are quantified at Rs.1,500/-.

Order accordingly.

JUDGE

JUDGE

APTE