

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

Criminal Writ Petition No.709 of 2017
(Suraj s/o. Shyam Arkhal .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

Ms S.V.Salvankar, Advocate (appointed) for the petitioner.
Mrs.Nandita Tripathi, A.P.P. for the Respondents 1 and 2.

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

DATE : 14.9.2017.

Heard.

By this Criminal Writ Petition, the petitioner challenges the order of the Superintendent of Prisons, Nagpur, dt.9.10.2016 rejecting the application of the petitioner for furlough leave.

The furlough leave application of the petitioner is rejected solely on the ground that when the petitioner was released on parole or furlough leave on the earlier occasions, the petitioner had not surrendered on the due date and he had surrendered belatedly and on two occasions, he was required to be brought to the prison through the Police Authorities.

Ms S.V.Salvankar, the learned Counsel for the petitioner states that the petitioner has not availed the parole or furlough leave after the year 2013 and if this Court grants furlough leave to the petitioner, the petitioner would surrender on the due date without fail. It is stated

that an opportunity may be granted to the petitioner to mend his ways. It is stated that though, on the earlier occasion, the petitioner had surrendered after 194 days, on the subsequent occasions, he has surrendered only after 74 days and 34 days. In the circumstances of the case, it is submitted on behalf of the petitioner that it would be necessary to grant an opportunity to the petitioner to improve his conduct.

Since the petitioner has undertaken to surrender on the due date, an opportunity needs to be granted to the petitioner to improve himself. Though we find that on the earlier occasions the petitioner had overstayed the parole or furlough leave by more than 190 days, subsequently he had overstayed the leave by lesser number of days.

In the circumstances of the case, the 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 Prisons (Bombay Furlough and Parole) Rules, 1959. Order accordingly.

The professional fees of the learned Counsel for the petitioner are quantified at Rs.1,500/-.

JUDGE

JUDGE

**jaiswal*