

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

Writ Petition No. 774/2017

Ramkrushna S/o Haridas Meshram

-vs-

D.I.G of Prison, Eastern Region, Nagpur & anr.

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

Court's or Judge's orders

Mrs. S.P. Dhotre, Adv. (Appointed) for the petitioner
Shri P.S. Tembhare, A.P.P for the Respondents

CORAM : Smt. Vasanti A. Naik &
M.G. Giratkar, JJ.

DATE : 26/09/2017

Heard.

By this Writ Petition, the petitioner challenges the order of the D.I.G (Prisons), Nagpur dated 23/05/2017, rejecting the application of the petitioner for grant of furlough leave.

The application of the petitioner for grant of furlough leave is rejected by the D.I.G (Prisons) by relying on Rules 4(4) and 4(10) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

Mrs. Dhotre, the learned counsel for the petitioner submitted that the petitioner had surrendered belatedly on most of the occasions when he was released

on Parole and Furlough leave but the delay is not much. It is stated that the petitioner had surrendered 1 day, 15 days and 21 days after the due date when the petitioner was released on Parole and Furlough leave in the year 2010, 2012 and 2013 respectively. It is submitted that in the year 2015, the petitioner was about to surrender, but he was arrested and brought to the prison five days after the due date. It is stated that if the petitioner is released on Furlough leave on this occasion, the petitioner would surrender on the due date. It is stated that a lenient view may be taken in the matter of the petitioner, on this occasion.

Shri Tembhare, the learned Additional Public Prosecutor appearing for the respondents has supported the order of the D.I.G (Prisons). It is stated that in the year 2015, the petitioner was required to be brought to the prison by the Police authorities. The learned Additional Public Prosecutor sought for the dismissal of the writ petition.

In the circumstances of the case, we are inclined to grant an opportunity to the petitioner for considering whether the petitioner would mend his ways.

The petitioner had surrendered a little late on every occasion, when he was released on Parole or Furlough leave. The petitioner has undertaken to surrender on the due date on this occasion. In the circumstances of the case, when the delay is very short on each of the occasions, the impugned order is liable to be quashed and set aside with a view to grant an opportunity to the petitioner.

For the reasons aforesaid, 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 Rules of 1959. Order accordingly.

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

JUDGE

JUDGE