

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

Criminal Writ Petition No.822 of 2017

(Mohan @ Ballu Haribhau Markand .vs. The D.I.G. (Prisons) (E), Nagpur 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.Mir Nagman Ali, Advocate for the Petitioner.
Mr.Ambarish Joshi, A.P.P. for the Respondents 1 and 2.

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

DATE : 8.9.2017.

By this Criminal Writ Petition, the petitioner challenges the order of the D.I.G. (Prisons), Amravati, dt.25.7.2017 rejecting the application of the petitioner for furlough leave.

It appears that the furlough leave application of the petitioner is rejected solely on the ground that the Police Verification Report is not favourable to the petitioner. It is observed in the impugned order that since the petitioner had committed the offence for which he was convicted and sentenced to undergo life imprisonment, due to political rivalry, it is not proper to release the petitioner on furlough leave as it could result in law and order situation.

We do not find any propriety in the observations made in the impugned order for the rejection of the furlough leave application. The petitioner has already

undergone the sentence for a period of nearly four years. Merely because the petitioner is convicted for the offences punishable under Section 302 of the Penal Code r/w. Sections 3, 4 and 25 of the Arms Act, it cannot be said that the petitioner could never be released on furlough leave. Since this is the first occasion when the petitioner has sought for furlough leave, it would be necessary to release the petitioner on furlough leave and to consider the conduct of the petitioner on his release and see whether he would surrender on the due date as undertaken by him.

Hence, 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 is required by Rule 6 of the Prisons (Bombay Furlough and Parole) Rule, 1959. Order accordingly.

JUDGE

+ JUDGE

**jaiswal*