

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Writ Petition No. 0261 of 2018

District : Dhule

Nimba s/o. Pundlik Patil
Age : 63 years,
Convict No.C/7478,
Nashik Road Central Prison,
Nashik.

.. Petitioner.

versus

The State of Maharashtra.

.. Respondent.

.....

Ms. Smita Kulkarni, Advocate, for the petitioner.

*Mr. K.S. Patil, Addl. Public Prosecutor, for
the respondent.*

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**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 03RD APRIL 2018

ORAL JUDGMENT *[Per Prasanna B. Varale, J.] :*

Heard learned Advocate (appointed) for the petitioner and the learned Addl. Public Prosecutor for the respondent - State of Maharashtra.

02. Learned Advocate (appointed) for the petitioner submitted that due to paucity of time, she could not file a proper petition but she is ready on the merits of the petition.

03. Learned Advocate for the petitioner submitted that the petitioner, who is convict no. C-7478 and lodged presently at Nashik Road Central Prison, Nashik, prayed for grant of furlough leave. The prison authority only on a mechanical approach, rejected the application and the order of the prison authority was confirmed by the appellate authority. Learned Advocate submitted that though the ground of rejection is an adverse police report, there is nothing which comes on record to say that there was an adverse material against the petitioner except some civil dispute between the petitioner and his sister. Learned Advocate for the petitioner also submitted that the petitioner was released on parole and furlough leave earlier on five occasions. On all earlier occasions, the petitioner reported to the prison authorities *suo motu* within time. She further submits, that at that time, no such reason of the petitioner having a civil dispute with his sister came in the way of the petitioner for his release on leave. She has, therefore, urged that the petitioner be allowed and the petitioner may be released on furlough leave.

04. Learned Addl. Public Prosecutor appearing for the respondent made an attempt to support the order passed by the authorities. He also made available relevant documents for our perusal.

05. On going through the material placed on

record, we are of the opinion that the learned Advocate for the petitioner was justified in making submission that the impugned orders of rejection are on mechanical approach of the authorities. We find that prior to this occasion, the petitioner was released on furlough leave on three occasions i.e. in the years 2009, 2012 and 2014. On all these three occasions, the petitioner reported back to the prison authorities on the due date. Apart from that, there were again two occasions of his release i.e. in the years 2011 and 2014. Even on those two occasions, the petitioner reported to prison authorities on due date. Learned Advocate for the petitioner was justified in submitting that when there was no such hindrance for the petitioner coming in his way for his release on earlier occasions, the ground raised by the authorities to reject the prayer, namely, the civil dispute is only a mechanical approach by the authorities.

06. Considering the above referred facts, the criminal writ petition is allowed.

The impugned order dated 08.05.2017 passed by the Deputy Inspector General of Prisons, Aurangabad, so also, order dated 03.10.2017 passed by the Additional Director General of Police & Inspector General of Prisons, Pune, are quashed and set aside. We direct the prison authorities to release the petitioner on furlough leave, as expeditiously as possible, after complying all necessary formalities.

07. Learned Advocate Ms. Smita Kulkarni was appointed to represent the case of the petitioner. Her fees is quantified at Rs. 3,000/- [Rupees three thousand].

(Smt. Vibha Kankanwadi)
JUDGE

(Prasanna B. Varale)
JUDGE

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