

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

CRIMINAL WRIT PETITION NO.587 OF 2018

Dattu Baburao Pawar,
Age: Major, Occ. : Convict No.C/9529,
R/o. At Nashik Road Central Prison,
Nashik. **.. PETITIONER**

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Home Department, Mantralaya,
Mumbai.
2. The Maharashtra Prison Department,
Additional Director General of Police
and Inspector General of Prison &
Correctional Services, Pune-1.
3. The Deputy Inspector General (Prison)
Central Prison, Harsool, Aurangabad.
4. The Superintendent of Prison,
Nashik Road Central Prison,
Nashik. **.. RESPONDENTS**

...

Mrs.Almas Shaikh Riyaz [Appointed] Advocate for
the petitioner
Mr.S.W.Mundhe, APP for the respondent/State

...

**CORAM: S.S. SHINDE AND
V.K.JADHAV, JJ.
DATE : 12.07.2018**

ORAL JUDGMENT: [Per S.S.Shinde, J.]

1] Heard. Rule. Rule made returnable
forthwith, and heard finally with the consent of
the parties.

2] This Petition is filed with the following
prayer:

B. By way of appropriate writ, order or
direction in the like nature, the
rejection orders of the Respondents may
kindly be quashed and set aside and the
Petitioner may kindly be released on
furlough leave.

3] The petitioner is convicted for the
offence punishable under Section 302 of the Indian
Penal Code. He is undergoing life imprisonment at
Nashik Central Prison, Nashik.

 The petitioner applied for furlough with
respondent no.3, but the said application was
rejected by the impugned order dated 29th
September, 2017. While rejecting the said

application, four reasons were assigned; *firstly* adverse police report is received, *secondly* there was no recommendation of the Superintendent of Jail to release the petitioner on furlough; *thirdly* the petitioner is convicted under serious offence, and *fourthly*, the furlough is not a right of the convict/prisoner.

4] Learned counsel appearing for the petitioner submits that the principal reason for rejection of the prayer of the petitioner to release him on furlough was adverse police report. However, the said report on which the respondent authorities have placed reliance was in the year 2016. Learned counsel appearing for the petitioner invites our attention to the police report dated 27th April, 2017 and also police report dated 29th April, 2017, [which are at Page 17 & 18 of the compilation of the Writ Petition] and submits that in fact the reason assigned in the impugned order that the police report is adverse, is contrary to record, inasmuch as it is mentioned in the said

police report that there is no impediment to release the petitioner on furlough. In that view of the matter, in our opinion, on that ground alone, the impugned order deserves to be quashed and set aside. Accordingly, the same is quashed and set aside. We direct respondent no.3 to reconsider the prayer of the petitioner to release him on furlough relying upon the police report, which is already on record of which reference is already made herein above, as expeditiously as possible, however, within 4 weeks from today.

5] We make it clear that the respondent authorities shall not place reliance upon the same reasons, which are assigned in the earlier order and consider the prayer of the petitioner independently.

6] Rule is made absolute on above terms. The Writ Petition stands disposed of accordingly.

7] Since, Mrs. Almas Shaikh Riyaz, the learned counsel is appointed to prosecute the

cause of the petitioner, she would be entitled for the fees, as per the schedule of fees maintained by the High Court Legal Services Sub-Committee, Aurangabad.

8] Parties to act upon authenticated copy of this order.

[V.K.JADHAV]
JUDGE

[S.S.SHINDE]
JUDGE

DDC