

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1382 OF 2018

Ramprasad Bhagwati Choudhari
age major, occ. nil
r/o Ganesh Hotel & Restaurant,
Kolsa Bandar, Darukhana Roy Road,
Mazgaon, Mumbai
At Present Visapur open prison
Tq. Shrigonda, Dist. Ahmednagar

Petitioner

Versus

1. The State of Maharashtra
2. The Deputy Superintendent
Open Prison, Visapur
Dist. Ahmednagar
3. The Deputy Inspector General
Police (Prison) Western Region
Yerwada, Pune

Respondents

Mr. S.P. Chate, advocate for petitioner.
Mr. D.R.Kale, A.P.P. for respondents.

**CORAM : R.M.BORDE &
MANGESH S. PATIL, JJ.**

DATE : 1st November, 2018

JUDGMENT : (Per R.M. Borde, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally at admission stage with the consent of learned counsel for the respective parties.
3. Petitioner tendered an application seeking furlough leave for a period of 28 days. it is not a matter of dispute that the

petitioner, who is lodged in open prison, is entitled to be released on furlough leave, however, could not comply with the condition of furnishing a surety and to tender necessary documents. On account of failure of petitioner to furnish surety, the application tendered by him for grant of furlough leave has been turned down.

4. The learned APP appearing for State, on instructions, informs that the petitioner has undergone imprisonment for a period of 13 years including remission.

5. The petitioner is convicted under section 302 of Indian Penal Code and sentenced to undergo imprisonment for life. Considering the period of imprisonment already undergone by the petitioner as well as on consideration of his past record, which is stated to be satisfactory, the request made by the petitioner for directing his release on furlough on execution of personal bond deserves to be considered. In this context, the judgment of full bench of this Court in case of Dipak Sudhakar Wakalekar versus State of Maharashtra and others reported in **2011 CRI L.J. 3263** shall be relied upon. The Full Bench of this Court has ruled that the sanctioning authority has discretion, in the given facts of the case, to release prisoner on parole by dispensing with requirement of furnishing surety bond in Form A appended to the Rules. As per the proviso to Rule 6 of the Rules, 1959, a convict confined in open prison can be released on furlough by the sanctioning authority by dispensing with the requirement of execution of bond by the relatives. Similarly, a convict confined in open prison can be released on parole by the authorities by dispensing with requirement of execution of bond by the relatives. In the instant

matter, the petitioner has prayed for grant of furlough as he has been confined in open prison and his past record is unblemished.

6. In these circumstances, we direct respondents to dispense with the requirement of furnishing surety bond in form 'A' and to release the petitioner on furnishing personal bond. Necessary orders shall be issued forthwith.

7. Rule is accordingly made absolute. No costs.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

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