

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

Criminal Writ Petition No. 01790 of 2017

District : Aurangabad

Shaikh Hasan s/o. Shaikh Amin
(C-8137),
Central Prison, Aurangabad.

.. Petitioner.

versus

1. The State of Maharashtra,
Through D.I.G.
Prisons, Aurangabad.

2. The State of Maharashtra,
Through Superintendent,
Central Prison,
Aurangabad.

.. Respondents.

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*Mr. Rupesh A. Jaiswal, Advocate, for the
petitioner.*

*Mr. S.W. Munde, Addl. Public Prosecutor, for
respondent nos.01 and 02.*

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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 for the petitioner
and the learned Addl. Public Prosecutor for the
respondents.

02. The petitioner challenges the order dated

01.11.2017, thereby prayer for grant of furlough leave was rejected. The petitioner is lodged at Central Prison, Aurangabad, as convict no. C-8137. The order passed by the prison authority show that there are two grounds of rejection which are basic; firstly, an adverse report of the police authority and secondly, the petitioner when was released in the year 2017, he gave threats to relatives of the informant and committed breach of conditions.

03. Learned Advocate for the petitioner submitted that the grounds for rejection are unsustainable for the reason that this was not the first occasion when the petitioner sought for leave. On earlier occasion, the petitioner was permitted to go out of jail by obtaining the leave and even after the order dated 25.10.2017, the petitioner was granted parole leave on 24.01.2018. Learned Advocate then submitted that the second ground of rejection is an apprehension that if the petitioner is released, he may indulge in act of threatening the witnesses as he found to be indulged in the said act on earlier occasion. Learned Advocate for the petitioner submitted that the petitioner is making stagement before this Court, that the petitioner will not reside in the area of CIDCO, Aurangabad, but the petitioner will reside at Sillod which is approximately 60 Kms. away from Aurangabad. Learned Advocate for the petitioner invited our attention to the statement made in ground "B" of the petition.

04. Learned Advocate for the petitioner also invited our attention to the order dated 24.01.2018, thereby releasing the petitioner on parole leave. The parole leave was granted subject to the condition that the petitioner would reside at Sillod and report the police station authority twice in week. The said condition was referred to in clause 7 of the order dated 24.01.2018.

05. Learned Addl. Public Prosecutor though opposes the petition, we are of the opinion that the petition can be allowed in view of the material placed on record and the apprehension expressed by the authorities can be taken care of by imposing certain conditions on the petitioner. Material placed on record show that on earlier occasion i.e. in the year 2017, when the petitioner was released, he reported to the prison authorities on the due date. The report submitted by the prison authority further show that behaviour of the petitioner in prison is satisfactory.

06. Considering the statement made by the petitioner, that he would reside at Sillod, the apprehension expressed by the authority is taken care of. In addition to the statement made by the petitioner, a condition is imposed upon the petitioner to attend Sillod Police Station every day and maintain diary of his attendance duly countersigned by the police station officer.

07. In view of the above referred facts, we allow the criminal writ petition.

The impugned order dated 01.11.2017 passed by the Deputy Inspector General of Prisons, Aurangabad, is quashed and set aside. The petitioner - convict is directed to be released on furlough leave subject to compliance of necessary formalities and subject to the statement made before this Court, that the petitioner will reside at Sillod during the period of his furlough leave and further subject to the condition that the petitioner would attend Sillod Police Station every day and maintain diary of his attendance. Apart from these conditions, the authority may impose necessary conditions in view of the prevailing rules.

(Smt. Vibha Kankanwadi)
JUDGE

(Prasanna B. Varale)
JUDGE

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