

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

CRIMINAL WRIT PETITION NO.91 OF 2018

[Raju Datta Pawar .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S.S. Dhote, counsel (appointed) for the petitioner,
Shri B.M. Lonare, APP for the respondents.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 03, 2018.

By this writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 24.11.2017 rejecting the application of the petitioner for furlough leave.

The furlough leave application of the petitioner is rejected on the ground that the sons of the petitioner are objecting to the release of the petitioner on parole as he had committed the murder of their mother. The furlough leave application of the petitioner is rejected as the sons of the petitioner do not wish that the petitioner should stay with them when he is released on parole leave.

On the last date of hearing, we had asked the learned counsel for the petitioner to take instructions from the petitioner whether the petitioner could reside with some other relative in Pusad.

Mrs. Dhote, the learned counsel for the petitioner states on instructions that the petitioner would be residing with his real brother who resides at Shivaji Ward in Pusad. It is stated that since the house of the sons of the petitioner is away from the place where the petitioner wishes to reside while on parole, a direction may be issued against the respondents to release the petitioner.

The petitioner has undergone imprisonment for a period of more than 13 years. Merely because the petitioner is convicted for the offence of murdering his wife, the right of the petitioner to seek parole or furlough leave cannot be denied as the sons of the petitioner have objected to the release of the petitioner on parole or furlough. The sons of the petitioner may object even if the petitioner is released after he completes the terms of imprisonment. This cannot be a reason for denying furlough leave to the petitioner, more so when the petitioner is ready to reside at Shivaji Ward in Pusad with his brother.

Hence, for the reasons aforesaid, the criminal 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) Rules, 1959. Order accordingly.

JUDGE

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