

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 100/2018

(IBRAHIM KHA NIYAMAT KHA (IN JAIL) **VERSUS** D.I.G. PRISON, NAGPUR & ANOTHER)

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

Court's or Judge's orders

Shri S.D. Chande, counsel for the petitioner.
 Mrs. N.R. Tripathi, A.P.P. for the respondents.

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

DATE : MARCH 21, 2018.

By this writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 20.11.2017 rejecting the application of the petitioner for furlough leave.

The furlough leave application of the petitioner is rejected solely on the ground that when the petitioner was released on parole leave in the year 2009, he was arrested and was required to be brought to the prison by the police authorities 1259 days after the due date.

Shri Chande, the learned counsel for the petitioner, states that the petitioner had misconducted himself in the year 2009 when he was released on parole leave but when he was released on parole in the recent past, he had returned to the prison on the due date. It is stated that an opportunity may be granted to the petitioner to mend his ways as he would return to the prison on due date, if he is released on furlough leave on this occasion.

Mrs. Tripathi, the learned Additional Public Prosecutor appearing for the respondents, has opposed the prayer made in the writ petition. It is stated that the petitioner was not only required to be arrested after more than a couple of years when he was released on parole leave in the year 2009 but a writ petition filed by

the petitioner in the year 2016 for seeking furlough leave was rejected.

In the circumstances of the case, an opportunity needs to be granted to the petitioner to mend his ways as requested on behalf of the petitioner. Though the petitioner had not surrendered on the due date, it was long back, in the year 2009. When the petitioner was released on parole for his daughter's marriage, he had returned to prison on the due date. In the circumstances of the case, to consider whether there could be any change in the conduct of the petitioner, it would be necessary to grant an opportunity to the petitioner.

Hence, for the reasons aforesaid, the 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 relatives of the petitioner furnishes surety as is required by the Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

Order accordingly.

JUDGE

JUDGE

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