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IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CRIMINAL WRIT PETITION NO. 112/2018

(Sonu @ Swapnil Madhav Wakde vs. Deputy Inspector General of Prison (East Region) Nagpur
 and another)

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

Court's or Judge's order

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 Ms. S.B. Khobragade, Advocate for petitioner
 Ms. Nandita Tripathi, Addl. Public Prosecutor for respondents

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.
DATED : 26th February, 2018.

By this writ petition, the petitioner challenges the order of the Deputy Inspector General of Prisons, Nagpur dated 18.12.2017 rejecting the application made by the petitioner for grant of furlough leave.

It appears from the impugned order that the furlough leave application of the petitioner is rejected solely on the ground that Vilas Wakde, the cousin of the petitioner, who was ready to furnish the surety is residing in the same locality where the family of the victim resides and hence there is a possibility of a fight or an assault by the accused on the victim or his family members or vice versa. Apart from the aforesaid reason, no other reason is recorded in the impugned order for rejecting the application.

Ms. Khobragade, the learned counsel for the petitioner states that the cousin brother of the petitioner, namely, Rajendra Dhote, is ready to furnish surety for the release of the petitioner

and the house of Rajendra Dhote where the petitioner intends to reside is 12 km. away from the house of the victim. It is stated that the direction may be issued against the respondents to accept the surety of Rajendra Dhote and release the petitioner on furlough.

The only reason for rejecting the application of the petitioner for furlough leave is that the house of Vilas Wakde, who is ready to furnish surety is located near the house of the victim, there is a likelihood of a fight between the members of the family of the accused and the victim and an untoward incident may take place. Since Shri Rajendra Dhote, who resides about 10 to 12 km. away from the house of the victim is ready to furnish surety for the petitioner's release, it would be necessary to direct the respondents to accept the surety furnished by Rajendra Dhote and release the petitioner on furlough leave. In our view, even if the petitioner had not furnished the surety of Rajendra Dhote, we were inclined to consider the prayer of the petitioner for his release on furlough leave by furnishing the bond of Shri Vilas Wakde as we do not find any propriety in the reason recorded by the Deputy Inspector General (Prisons) about the possibility of the happening of an untoward incident, in future.

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 petitioner furnishes the surety, as required by Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

Order accordingly.

JUDGE

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