

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

CRIMINAL WRIT PETITION NO.136 OF 2018

[Ashok s/o Anklu Jangam .vs. State of Maharashtra and one]

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

Court's or Judge's orders

Shri A.Y. Sharma, Advocate for Petitioner,
Mrs. Nandita Tripathi, APP for Respondents.

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

DATED : MARCH 01, 2018.

By this criminal writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 16.12.2017 rejecting the furlough leave application of the petitioner.

The petitioner was convicted and sentenced for the offence punishable under section 302 of the Penal Code. The petitioner has undergone the sentence of imprisonment for nearly 4½ years. This is the first time that the petitioner has applied for furlough leave. The furlough leave application of the petitioner is rejected on the ground that one more offence punishable under Section 386 of the Penal Code is pending against him. The other reason for rejecting the furlough leave application is that if the petitioner is released on furlough leave, there is a possibility that an untoward incident may happen.

We are not impressed by both the reasons recorded by the D.I.G. Prisons, Nagpur for rejecting the application. Merely because the victim's family members have stated that the petitioner should not be released on furlough, his application for furlough leave cannot be rejected. This is the first time that the petitioner is seeking his release on furlough leave. It would be

necessary to consider as to how the petitioner behaves after he is released on furlough leave. The furlough leave application cannot be rejected merely because another offence is pending against the petitioner.

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 within seven days from the date on which the petitioner furnishes the surety, as is required by Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

Order accordingly.

JUDGE

JUDGE

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