

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

CRIMINAL WRIT PETITION NO.137/2018

Jitendra s/o Dayaram Jangam, Convict No.C-9167, Central Prison, Nagpur, Dist.
Nagpur
...Versus...
State of Maharashtra, through D.I.G. Prison (East), Nagpur and another

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, Counsel for petitioner
Mrs. Nandita Tripathy, APP for respondents

CORAM : SMT. VASANTI A NAIK AND
ARUN D. UPADHYE, JJ.
DATE : 21/02/2018

By this criminal writ petition, the petitioner seeks his release on furlough by relaxing the condition of furnishing surety.

In support of his prayer, the petitioner has relied on the judgment of the Full Bench of the Gujarat High Court, reported in *1984 CRI. L.J. 936 (Natia Jiria...Verrsus...State of Gujarat and others)* and on the judgment of this Court, reported in *2017 ALL M.R. (Cri) 1214 (Rajaram s/o Shripati Banduke...Versus...The State of Maharashtra and others)*.

We are not inclined to grant the prayer made by the petitioner in the instant writ petition. Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959 was not considered by the Division Bench of this Court while directing the respondents in that case to release the petitioner on furlough on

executing personal bond by relying on the judgment of the Full Bench of Gujarat High Court, reported in **1984, CRI. L.J. 936**.

Rule 6 of the Rules provides that a prisoner shall not be granted furlough unless he has a relative willing to receive him while on furlough and ready to enter into a surety bond in Form – A, appended to the Rules for such amount as may be fixed by the Sanctioning Authority. The proviso to Rule 6 of the Rules empowers the Sanctioning Authority to dispense with the requirement of the execution of the bond by relatives of prisoners confined in Open Prison but for the prisoners who are not in Open Prison the surety bond in Form - A cannot be dispensed with. The said Rule was not considered by the Division Bench of this Court while allowing the prisoner in that case to furnish the personal bond. The object of Rule 6 of the Rules is to ensure through the surety that the prisoner does not abscond or does not involve himself in any untoward incident. The petitioner is free to furnish the surety of any of his relatives and avail the furlough leave.

With these observations, we dispose of the criminal writ petition with no order as to costs.

JUDGE

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