

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

CRIMINAL WRIT PETITION NO.171 OF 2018

[Shivkumar Ghanshyam Jamunpane .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

Ms. S.D. Wankhede, Advocate for Petitioner,
Shri S.B. Bissa, 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 19.1.2018 rejecting the application of the petitioner for grant of furlough leave.

The furlough leave application of the petitioner is rejected on the ground that when the petitioner was released on furlough or parole leave on the earlier occasions, he did not surrender on the due date and in the year 2016 he was required to be brought back to the prison through the police. It is also observed in the impugned order that the brother of the petitioner, who is ready to furnish surety for the petitioner, resides at Nagpur and his house is located at Nagpur and the petitioner would reside at Varthi, after he is released on furlough leave. It is observed in the impugned order that the brother of the petitioner viz. Santosh would not be able to exercise control over the petitioner as Varthi is located at the distance of 60 kms from Nagpur.

Ms. Wankhede, the learned counsel for the petitioner, states that the petitioner would be required to reside at Varthi as his old father is unwell and the petitioner would furnish the surety-bond of any of his relative from Varthi for seeking his release on furlough.

If that be so, it would be necessary to allow the criminal writ petition by quashing and setting aside the impugned order. The petitioner had not surrendered on the due date in the year 2016, as his old mother was extremely ill and after he was arrested by the police three days from the due date, the mother of the petitioner had expired. The learned counsel for the petitioner has stated that the petitioner would surrender on the due date on this occasion. The petitioner is also ready to ask one of his relatives residing at Varthi to furnish surety for his release.

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

Order accordingly.

JUDGE

JUDGE