

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

CRIMINAL WRIT PETITION NO.310 OF 2018

[Golu @ Dipak Ananda Tayde .vs. DIG Prisons, Nagpur and one]

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

Court's or Judge's orders

Mrs. S.D. Paul, counsel (appointed) for the petitioner,
Mrs. Tripathi, APP for the respondents.

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

DATED : APRIL 13, 2018.

Heard.

By this criminal writ petition the petitioner challenges the order of the D.I.G. Prisons, Nagpur dated 15.1.2018 rejecting the furlough leave application of the petitioner.

The furlough leave application of the petitioner is rejected on the ground that the petitioner is likely to abscond and involve himself in another crime if he is released on furlough. It is observed in the impugned order that if the petitioner is released on furlough leave, criminals would have no fear of committing crime. The furlough leave application of the petitioner is rejected as the appeal filed by the petitioner is pending.

There is no propriety in any of the reasons recorded by the D.I.G. Prisons, Nagpur for rejecting the furlough leave application of the petitioner. Merely because the appeal filed by a prisoner is pending, the furlough leave application of the said petitioner cannot be rejected. Rule 4 (11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 is challenged in a number of criminal writ petitions and this court has prima facie found that the amended Rule 4 (11) is arbitrary and unreasonable.

We also do not find any propriety in rejecting the application on an apprehension that the petitioner would

abscond. The apprehension expressed by the respondents that the petitioner would abscond if he is released on furlough leave is without any basis. If the petitioner had absconded on earlier occasions, the said apprehension would have had some weight. There is however no observation in the impugned order that when the petitioner was released on parole or furlough leave on earlier occasions, he had absconded. The observation made in the impugned order that if the petitioner is released on furlough leave criminals would not be scared of committing the crime is not only unreasonable but is ridiculous. The same has no basis.

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

JUDGE

JUDGE