IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CRIMINAL WRIT PETITION NO.342/2018
(Rohit Prem Baghel vs. Deputy General Inspector of Prison, Nagpur and another)

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

Mr.S.B.Khobragade, Advocate for the petitioner
Ms. N.R. Tripathi, Additional Public Prosecutor for respondents

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

Heard.

By this Writ Petition, the petitioner challenges the order of the Deputy Inspector General of Prisons, Nagpur, dated 16.3.2018, rejecting the application of the petitioner for grant of furlough leave.

The application of the petitioner was rejected on the ground that when the petitioner was released on furlough leave in the years 2012, 2013 and 2014 he had surrendered late by 7 days, 40 days and 1 day respectively. It is further stated that the conduct of the petitioner in the prison is not appropriate. It is also observed in the impugned order that if the petitioner is released on furlough, there is a likelihood that he would again be involved in criminal activity.

We do not find any propriety in any of the reasons recorded by the D.I.G.(Prisons) for rejecting the furlough leave application of the petitioner. The petitioner had no doubt surrendered belatedly when he was released on furlough leave in the years 2012, 2013 and 2014 but on the last occasion *viz.* 2014 he was late only by one day. It is also informed that thereafter the petitioner was released on furlough in the year 2017 and he has surrendered on the due date. In any case, a belated surrender by one day on the last occasion cannot be a ground for rejection of the furlough leave application. The apprehension expressed by the D.I.G. (Prisons) that the petitioner would again involve himself in criminal activity and that his conduct in the prison is not appropriate has no basis. It is not stated in the impugned order as to why the D.I.G.(Prisons) is of the view that the petitioner would commit similar crime if he is released on furlough leave particularly when he has not committed any such crime when he was released earlier on furlough leave. Also, though there is a mention in the impugned order that the petitioner's conduct is not appropriate, there is nothing in the order to show as to how the petitioner had misconducted himself. In the circumstances of the case it would be necessary to release the petitioner on furlough.

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 relative of the petitioner furnishes surety as is required

under Rule 6 of prisons (Bombay Furlough and Parole) rules, 1959. Order accordingly.

JUDGE **JUDGE**

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