

—
IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CRIMINAL WRIT PETITION NO. 382/2018

(Shekhar Bhimrao Meshram **VS.** The DIG of Prison (E) 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

Ms.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 furlough leave.

The furlough leave application of the petitioner was rejected on the ground that the petitioner was required to be brought back to the prison almost 401 days after the due date when he was released on furlough leave, in the year 2011. It is also observed in the impugned order that the conduct of the petitioner is not good.

Ms.Khobragade, the learned counsel for the petitioner states that though the petitioner was required to be brought to the prison in the year 2011 when he did not surrender, the petitioner has surrendered on the due date when he was released on furlough leave in the years 2016 and 2017. It is stated that the order of the D.I.G. (Prisons)

that the petitioner had surrendered on the due dates in the years 2016 and 2017 are annexed to the writ petition.

In the circumstances of the case, it would be necessary to release the petitioner on furlough leave. The petitioner, no doubt, was required to be arrested in the year 2011 when he had not surrendered but in the years 2016 and 2017 the petitioner had surrendered on the due date when he was released on furlough leave. If that is so, it would not be proper for the D.I.G. (Prisons) to rely on an old case though in the recent past, the petitioner had surrendered on the due date.

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 by rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959. Order accordingly.

JUDGE

JUDGE