

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

CRIMINAL WRIT PETITION NO.509 OF 2018

Mohd. Farooque Mohd. Yusuf,
Aged about 65 years,
R/o. Bismilla Galli, Golibar 5th Road,
Santacruz East, Mumbai.
(C/4380, Central Prison, Amravati)

..PETITIONER

--Versus ---

1. Deputy General Inspector of Prison,
Eastern Region,
Nagpur.
2. Superintendent of Jail,
Central Prison, Amravati.

..RESPONDENTS

Shri S.D.Chande with Shri Raju Kadu, Advocates for petitioner.
Ms T.H.Udeshi, APP for respondents

CORAM : R.K.DESHPANDE and
VINAY JOSHI, JJ.
DATED : 30.10.2018

ORAL JUDGMENT (Per R.K.Deshpande, J.)

1. Rule made returnable forthwith.
2. Heard finally by the consent of learned counsels appearing for the parties.
3. The claim of the petitioner for releasing him on furlough leave for a period of 28 days has been rejected by order dated 17.04.2018 passed by

Deputy Inspector General (Prisons), Eastern Region, Nagpur. This is the subject matter of challenge in the present petition.

4. The reason assigned is that the petitioner was involved in the offences punishable under Sections 120(B), 302, 307, 324, 326, 435 of the Indian Penal Code and Section 151 of the Railways Act, in relation to bomb blast case. Therefore, the release was not recommended by the police as well as the Jail Authorities.

5. In para 6 of the reply of the respondents a chart is given showing that that on five occasions the petitioner was released on furlough leave and on three occasions he was released on parole leave. On some occasions, the petitioner surrendered late. Lastly, he was released on parole leave on 30.09.2016 and he returned back on due date i.e. on 04.10.2016. It is not the stand that when the petitioner was released on furlough or parole leave, on earlier occasions, he had misused the liberty or committed any offence. In one similar case, involving the accused in bomb blast case, bearing Criminal Writ Petition No.351/2018, we had granted furlough leave to the accused on 18.09.2018 after taking into consideration the decision rendered by this Court (Criminal Writ Petition No.2027/2017 at Principal Seat) releasing other accused persons involved in bomb blast case. We do not find any impediment in releasing the present petitioner on furlough leave.

6. In the result, this writ petition is allowed. The order dated 17.04.2018 passed by Deputy Inspector General(Prisons), is hereby quashed and set aside. The petitioner is held entitled to release on Furlough leave for 28 days, on such terms and conditions as the authority shall deem fit and proper. Besides that while on furlough leave, the petitioner shall report the concerned police station once in a week and before leaving the place of his residence, he shall provide an intimation to the concerned police station. If the petitioner commits an act of misconduct or fails to return on due date or commits offences, the same shall affect his release on the next occasions.

7. Rule is made absolute in the aforesaid terms. No order as to costs.

JUDGE

JUDGE

Andurkar