

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 409 OF 2019

Vasant Motiram Bhil,
Convict No. 9513, Nashik Road
Central Prison, Nashik.

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Addl. Director General of Police
and Inspector General Prison,
Pune)
2. The Deputy Inspector General Prison,
Aurangabad
3. The Police Inspector,
Police Station, Jalgaon
4. The Police Inspector,
Police Station, Jammner
Dist. Jalgaon
5. The Jail Superintendent,
Nashik Road Central Prison,
Nashik.

.. RESPONDENTS

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Advocate for the Petitioner : Madhuri Jain (Appointed)

A.P.P for respondent-State : Mr. M.M. Nerlikar

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**CORAM :T.V. NALAWADE AND
MANGESH S. PATIL ,JJ.**

DATE : 03rd May 2019.

ORAL JUDGMENT [PER T.V. NALAWADE J] :-

Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2. The petitioner is sent to the Jail as life convict. He was released on furlough in the year 2016. He turned up late by three days and this is the reason given for rejection of furlough. It appears that in the year 2016 as he did not turn up before the date fixed, a report was given to the police and then crime came to be registered and case came to be filed under Section 224 of the Indian Penal Code against him. Relief is claimed for quashing of the said F.I.R and also for quashing and setting-aside of the order of rejection of furlough. It can be said that there is no possibility of quashing and setting-aside F.I.R under which the case is filed under Section 224 of the Indian Penal Code. He had not informed about the reason and he had not applied to the jail prior to the period given to him when furlough was over and so apparently the offence is committed by him and that cannot be quashed and set-aside.

3. Under Rules framed by the State Government punishment like reduction of remission period is provided when the prisoner turns up late. For the period of three days there is specific punishment of reduction in remission period and that step is already taken by the respondents. That happened in the year 2016. The same rules provide that prisoner will be permanently debarred from getting remission if he has turned up late by six months. That has not happened in the present matter and so the case of the present petitioner ought to have been considered from that angle. The case is not considered from that angle

and necessary punishment is already given for previous incident, so the order of rejection made on that ground is not sustainable in law.

4. Learned counsel for the petitioner relied on Divisional Bench decision of this Court in *Criminal Writ Petition No. 904 of 2017 dated 14.09.2017 (Ashishrao Venkatrao Phadf Vs. State of Maharashtra and others)*.

In the result, following order :-

ORDER

1. The petition is partly allowed.
2. The prayer made for quashing and set-aside the case filed under Section 224 of the Indian Penal Code is hereby rejected.
3. The order of rejection of furlough passed by the respondent is quashed and set-aside. The application filed for furlough is allowed. On usual terms and conditions he is to be released on furlough.

Rule to that extent is made absolute.

4. Fees of the learned Advocate Ms. Madhuri Jain, appointed on behalf of petitioner, is quantified at Rs. 3,000/-(Rupees Three Thousand only), which would be payable by the High Court Legal Services Sub Committee at Aurangabad.

[MANGESH S. PATIL]
JUDGE

[T.V. NALAWADE]
JUDGE